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ORIGINAL

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES



Department of Land Management Conference Room ITC Building, Tamuning



Thursday, June 9, 2016 1:35 p.m. to 5:00 p.m.

GUAM LAND USE COMMISSION Regular Meeting Thursday, June 9, 2016

Department of Land Management Conference Room 3rd Floor ITC Building, Tamuning

MEMBERS PRESENT:

Mr. John Arroyo, Chairman

Mr. Victor Cruz, Vice Chairman

Ms. Conchita "Chit" Bathan, Commissioner

Ms. Beatrice "Tricee" Limtiaco, Commissioner

Mr. Michael Borja, Executive Secretary

[Excused - Ms. Kristan Finney, Legal Counsel]

PLANNING STAFF PRESENT:

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Penmer Gulac, Case Planner

Ms. Celine Cruz, Case Planner

Ms. Cristina Gutierrez, Recording Secretary

GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION Attendance Sheet

Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

	Date of Meeting: Thursday, June 9, 2016	X GLUC GSPC
		X Regular Regular
	Time of Meeting: L: 35Pm	Special Special
		Quorum Quorum
		Non-Quorum Non-Quorum
	COMMISSION MEMBERS	SIGNATURE
	John Z. Arroyo, Chairman	
}	Conchita D. Bathan, Commissioner	- CORY
	Beatrice "Tricee" P. Limtiaco, Commissioner	
	Victor F. Cruz, Commissioner	ORS
	Tae S. Oh, Commissioner	Excused
	Vacant, Commissioner	
	Vacant, Commissioner	
_		
	Michael J.B. Borja, Executive Secretary	MBoj-
	Kristan K. Finney, Legal Counsel	EXCUSED
	Marvin Q. Aguilar, Chief Planner	PRESENT &
	Frank Taitano, Planner IV	Grand S. Jaitans
	Penmer Gulac, Planner IV	1/~/
	Celine Cruz, Planner IV	COMMINIO
	Jeffrey Baker, Planner II	1
	M. Cristina Gutierrez, WPS II	Megneraux
	ADJOURNMENT: 5:10 pm	

GLUC Form 19 - GLUC Commission Attendance Sheet

GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION

Speaker's Sign-In Record

Location: Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

X GLU	C X Regular	Date: The	ursday, June 9, 2016		
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GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION

Public Attendance Record

Location: Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

X GLUC	GLUC X Regular Date: Thursday, June 9	
GSPC	Special Time: 1: % 5 page	
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Millie Chen	11 4	689-9909
AUDRIN LAO	~ ~	688-9146
For Sweps	tob	98 - F#45
Jezzica de la Penn		473-3301
Reter Tran		
Kichard Sana	CR. 1	
JOANNE BATACAN	CITY HILL - GUAM PLAZA BACK OF	477-3556
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GLUC Form 21 - GLUC Public Attendance	Record Form - APRIL 2010	

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES Department of Land Management Conference Room, ITC Bldg., Tamuning Thursday, June 9, 2016 • 1:35 p.m. to 5:00 p.m.

I. Notation to Attendance

Chairman Arroyo called to order the regular meeting of the Guam Land Use Commission for Thursday, June 9, 2016 at 1:35 p.m.; noting a quorum.

Present were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioners Conchita Bathan and Tricee Limtiaco, Executive Secretary Michael Borja, Chief Planner Marvin Aguilar, Planning Staff Frank Taitano and Celine Cruz, and Recording Secretary Cristina Gutierrez.

[Excused – Commissioner Tae Oh and Legal Counsel Kristan Finney]

<u>Chairman Arroyo</u> the agenda; does anybody have any questions or issues with the order of business on the agenda? If not, then we will just go ahead and move on to the first item of business ---

II. Approval of Minutes

<u>Chairman Arroyo</u> the approval of the April 28, 2016 GLUC meeting. If you all had an opportunity to read it, I'll entertain a motion.

<u>Commissioner Limtiaco</u> Mr. Chair, I move to approve the Minutes of the Guam Land Use Commission's regular meeting held on Thursday, April 28, 2016 with edits to be submitted to the Executive Secretary by close of business today.

<u>Chairman Arroyo</u> moved by Commission Limtiaco. Do I have a second?

Vice Chairman Cruz I second.

<u>Chairman Arroyo</u> seconded by the Vice Chair; any discussion? No discussion. All in favor of approval the Minutes say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioners Limtiaco and Bathan], all opposed say "nay."

Minutes are approve Cris ---

[Motion to approve the April 28, 2016 GLUC Minutes was passed unanimously; 4 ayes, 0 nay]

III. Old or Unfinished Business

Chairman Arroyo any old or unfinished business...Marvin?

Marvin Aguilar (Chief Planner) none at this time sir.

Chairman Arroyo okay, so let's move onto the first item under New Business --

IV. New Business

Horizontal Property Regime

A. The Applicant, LGI Pacific Guam LLC represented by Michael D. Flynn, Jr., Esq. and Timothy Armour; request to accept the amended and restated Declaration of Horizontal Property Regime and restated floors plans for Ladera Towers Condominium, on Lot Nos. 4 and 5, Tract 1822, in the Municipality of Mangilao, in an "R2" (Multi Family Dwelling) zone, HPR No. 104, Application No. 1993-01D.
Case Planner: Celine Cruz

Chairman Arroyo Celine ---

<u>Celine Cruz (Case Planner)</u> summarizes the staff report to include facts, purpose, staff analysis/discussion, recommendation/conditions. [For full content/context, please refer to Attachment A.]

[Attachment A – Staff Report dated June 2, 2016]

Chairman Arroyo when did we get these documents?

Celine Cruz the supplemental documents we received yesterday afternoon.

<u>Chairman Arroyo</u> yesterday afternoon, and so this is the first time that we're looking at them as members of the Commission. Any questions of the staff?

<u>Vice Chairman Cruz</u> okay so since you received this yesterday have you had time to review it and attest it?

<u>Celine Cruz</u> I actually received copies of a lot of those documents in the past two or three days. I've had a chance to look it over except for the abstract of title which was given to me yesterday morning.

<u>Vice Chairman Cruz</u> Mr. Chair, I mean, at least she had a bit of time to review, but for us it's just in front of us. I don't have time to sit here and read it.

<u>Chairman Arroyo</u> I understand what you're saying, and I think the rest of the Commissioners are shaking their head yes.

<u>Commissioner Bathan</u> I think we need time to review the documents, the supplemental documents that we have received only today.

<u>Chairman Arroyo</u> any other questions of the staff? [None noted] We'll go ahead and go to the applicant's representative for your presentation. I think the issue is that we just got this binder today and it's quite a lot of information. We don't have that much time to go through it right now, so go ahead with your presentation and then we'll discuss how we want to handle this after that.

<u>Michael D. Flynn</u> thank you Chairman Arroyo and all of the Commission members and also Celine, thank you very much. My name is Michael D. Flynn, Jr.; I am a practicing attorney here on Guam with the law firm of Yanza, Flynn and Timblin.

I see that my partner Tim Armour has escaped from responsibilities. We may not need his expertise at this point in time.

What we are looking at from my client's perspective; I represent LGI Pacific Guam, Inc., purchased the project and all the condominium units up there as Celine indicated back in 2012. So, this group gearing up for sales of the units to potential purchasers; actually at some point decided to get their architects in, they were looking at the drawings and they figured out, oh the measurements ... the documented measurements don't conform to the actual measurements on the ground. And then in addition they determined that there were a few other issues that had to be addressed and those are spelled out in the amendments that we proposed in form of the Declaration that is amended, but also restated.

Now, the bulk of the amendments or changes go to the exhibits attached to the Declaration. And I apologize, but one of the exhibits that wasn't presented in the letter to the Commission is actually Exhibit A; and that was a document, an exhibit that had to be updated in order to reflect the new owner of their operation. So, Ms. Cruz may have gotten you that document yesterday or today; but that should be actually inserted into the first binder.

So, we are looking to get the Commission's approval of the amendments so that my client can feel comfortable with selling the units having made full disclosure of all of the issues concerning that project, and that's the purpose for bringing the matter before the Commission. Ms. Cruz worked very generously with me to address the issues that she spotted and of course, we are willing to adjust any of her issues that the Commission may put forward.

The project, the land, the underlined the project has had a story (excuse the bad pun) history. It went through ownership back in (from what I can see in the abstract of title) back to 1931 with the Flores family. It traveled to many different families and finally ended up in different companies over time. The group called LTA, LLC was the first group in records, that I have, that indicate a filing of a declaration of an HPR, which as a matter of law under the Guam statutes

concerning the HPR established the HPR regime. Prior to that a group called Ladera Company Ltd. had and prior to them, a group called TNT Development obtained preliminary HPR reports, but apparently from what I can see at the record had never filed a declaration. So, it appears that LTA is the first entity which established this horizontal property regime. And prior to that there was a group called Ladera Company Limited which removed itself from the HPR stream, but in fact because from what I can see there was no declaration of ever being filed, and there never was an HPR. So, we're starting with the history really of LTA, LLC in the Declaration which was recorded in February of 2010, floor plans were filed the same date. And then ... there's a little bit of odd history as Ms. Cruz has pointed out that an HPR final report was filed prior to that, recorded prior to that. And then ultimately, strangely enough there was a first supplemental final public report which was approved by the Commission in 2012, but LTA, LLC never got the actual documentation before the Commission for a signature.

So, that's where stand. My client really did not have full information of all the history in the past. They have gone forward on the basis and I think it's correct to state that they do have a horizontal property regime in effect, but it needs some tweaking to bring it into correct conformance with the actual ... building and more properly the size and the different aspects on the ground over there. And once that's done then my client will feel comfortable about selling the units having made, having afforded the perspective purchasers the opportunity to get all the information everything that concerns that project.

In addition to Exhibits B, C, E, E-1 of the Declaration, please consider also the Exhibit A which is ... have gotten to you early this afternoon or perhaps yesterday. And then with respect to the floor plans this is really Mr. Tim Armour's ... this is where we relied upon his expertise and the expertise of his architects' firm. They were actually the ones who went in and did the measurements, and so they looked at those. And in addition to not having correctly stated the measurements in the prior Declaration there were some other issues on the first floor of the first floor plan from this first 22nd storey building. Apparently, in the initial floor plans the first floor indicated the pool and all that area was not part of the project and so that was included in the amended and restated floor plans. Also there were some corrections made to the first floor and the second floor plans. With respect to the parking lots those were allocated or designated to each individual condominium, but that was never the case with the actual set up over there so that's made clear that each unit has two slots, but they're not actually designated.

So those are the changes that we hope that the Commission would consider favorably we hope, and send us on our way to begin selling these units to perspective purchasers. Of the course if the Commission members have any questions or concerns I'd be more than willing to entertain them.

Chairman Arroyo any questions?

Commissioner Bathan I have a question on Tab 4 of the application; this is on the amended and restated HPR. On page 3, public utility metering on 2E it talks about the separate metering

for water. But it talks about power that there's a private meter that will be servicing the apartment [unable to decipher remaining comment].

Michael Flynn you're pointing out the public utility metering in Section 2C?

Commissioner Bathan 2E ---

<u>Michael Flynn</u> actually I wished that one of my client representatives was here with me. But as I understand as they ... they revealed to me that the system is there to do individual metering, but they had not actually used that system. That was my understanding as I recall.

<u>Commissioner Bathan</u> my question here is the apartment will be serviced by a is it a private meter and the private ... there's a sub-meter for each of the apartments ---

<u>Vice Chairman Cruz</u> if I may, this concept is the same as the Oka Towers. What happens is GPA because of the way they applied it, GPA came in with one meter, one meter then each one has a meter, a sub-meter so whoever is living in that they pay to whoever the association is. The association pays directly to Guam Power.

Commissioner Bathan and my concern is I don't know how solid the association maybe. Hopefully it is. But if it's like one meter for the whole apartment if the association fails somehow to make a payment then the whole apartment will not have any power. That was my concern.

<u>Vice Chairman Cruz</u> I guess the reason why they do that is that the big meter covers for other areas like swimming pool area

<u>Commissioner Bathan</u> yeah but it can be, it can be metered separately. I was just curious why they set up this way on a private meter and then each apartment will be billed.

Michael Flynn I think, Commissioner members, as Mr. Cruz had indicated, and I did live at Oka Towers for many years and was Counsel over there at one point too. And I apologize I didn't look into the inner workings of it so Mr. Cruz may know more about it then I do. But, the concept of the association taking on the main meter is a very reasonable one because you can see that for example with our schools here on Guam suddenly they're not paying for the power and boom GPA threatens to cut them off. Certainly, we wouldn't want that to happen to happen over at the condominium project. So, if the association is in control they can pay of GPA and then... each of the apartment owners individually to make sure that all the money is paid in to take care of that and then go after them if in fact they aren't pulling their share of the weight which they are entitled to do, and the owners are responsible to do under the By-laws. I don't know if that's helpful.

<u>Commissioner Bathan</u> I just don't know the benefit of having a private meter compared with individual meter since the condo is going to be individually owned anyway. I was just concerned about that. Curious why they want to have it metered privately.

<u>Chairman Arroyo</u> do you have any rules, regulations with respect to how the association will deal with delinquent payments?

<u>Michael Flynn</u> those are built into the By-laws. And those are actually submitted as an attachment to the Declaration. And with respect to the By-laws that concern this project, those haven't changed since the first By-laws that were submitted by LTA, LLC. They are the same and those are attached as the last exhibit.

<u>Commissioner Bathan</u> this is a big unit; so if one or two or five members or condo owners would not pay then it affects the cash flow of the association. I don't know how the other condo owners are going to be protected by that if the association has those kind of built in controls to protect the

<u>Michael Flynn</u> that's a normal part ... that's a good question; that's the normal part of the condominium structure and the association is set up to deal those issues exactly. What happens, it's rare, but on occasion it does happen. The owner is given a number of opportunities, chances, notices to make good on payment and if they don't they are taken to court. And it is possible that the unit could be foreclosed upon in order to pay for the assessments or debts, expenses of the condominium owner. So there's protection built in to the system. And the association doesn't want to go that route, but in some instances that's what has to happen.

Chairman Arroyo any other questions? [None noted] Are the units occupied now?

<u>Michael Flynn</u> yes, for the majority of them are actually, whether or not they are occupied is I suppose a separate issue; but, a majority of them in fact 80 percent or more are leased out. And these structures are set out in the supplemental documents at the last exhibit in that second binder that you have there you can see a scheme there indicating which units are vacant and which ones are occupied. Units with an "x" are the vacant ones and the ones with an "o" are occupied. And the legend is on the second page.

<u>Chairman Arroyo</u> what is the plan once you are able to start selling the units to ... move tenants out and ...

<u>Michael Flynn</u> that is a very good question. The fact that there are tenants is attractive to many of the potential purchasers because, in fact, what my client intends to do is sell for the most part to off-island potential purchasers. So, now at some point the relationship of course between the new owner and the tenant my change after the expiration of the lease. But for many of these potential purchasers, they are attracted to the prospect of a revenue stream, a regular revenue stream.

<u>Chairman Arroyo</u> but if the new owner wants it vacant there's a mechanism to terminate the lease early?

<u>Michael Flynn</u> that will have to be addressed at that point. But it was my understanding from my client that's not something that they consider relevant, at least for the most part of it.

Chairman Arroyo I see Tim is here if he wanted to ---

<u>Michael Flynn</u> if you have any questions about the floor plan ... Tim so generously and his staff spent time on working on it.

Chairman Arroyo if you could just mention your name for the record.

<u>Tim Armour</u> (Principle with RIM Architects) we did the as-built measurements and drawings for the horizontal property regime.

<u>Commissioner Limtiaco</u> hi Tim, I have a question, more of a request actually. In Exhibit F of the statement; Tab 4, Exhibit F. You included smaller versions of the floor plan. I'm going to ask if you can submit clearer drawings of the floor plans. It's really difficult to look at the area computations and to see some of the detail. It looks like these are maybe copies of copies of copies of copies; if that is possible, that would speed up our next meeting.

<u>Tim Armour</u> of course this is possible. These are drawings from the original hotel property regime. We just changed the ones that needed to be changed and some of these we didn't touch. So, these are from the original submitted in the original application.

<u>Michael Flynn</u> in fact you can see which pages are different with respect to floor plans by looking at the document, the instrument on the upper right side. Those with the instrument number still there are exactly the same plan for that floor that was evident in the initial applied for and those that don't have a document number on the upper right those are the new drawings that Tim and his staff worked on.

<u>Commissioner Limitaco</u> are we talking about Exhibit F? Tab 4, Exhibit 4. I understand that. Whether it's 4 or 6 for example the 3rd floor plan (just as an example) is not clear either.

<u>Tim Armour</u> the direction we got from the client is they want to make some corrections on the drawings and so we only touched the drawings that we were instructed to touch; we didn't touch them all, because they assumed since they had been accepted as a recorded document that they would be acceptable now.

Vice Chairman Cruz are there any changes on those recorded.

<u>Tim Armour</u> any of the drawings that have the recorded document number on them we did not touch. They are the same that was submitted in the first application.

<u>Vice Chairman Cruz</u> some of the floor areas they are common units right. In otherwords, all the two-bedroom down that floor are basically the same?

<u>Tim Armour</u> the 4th floor up to the 20th floor (no it's not true); 4th floor and the 18th floor are identical. And then the 19th, 20th and 21st all have different end units; the center units are all the same. We can actually do a drawing that can be seen on an 8-1/2 x 11, that's possible.

Commissioner Bathan and if you can mark off the area that was changed.

<u>Tim Armour</u> it was mostly just renaming. No walls were moved and no living units were added. They just wanted to clarify the common area in the lower floors of the development.

<u>Vice Chairman Cruz</u> it was mentioned that areas to include living areas were indicated in here or there's no change in the living area.

Tim Armour there is no change to the living areas. The living units, the drawings.

<u>Commissioner Limtiaco</u> Tim, I have a question regarding utilities. For another application that was before us recently this project was brought up. And one of the specific issues that was brought up was water. The availability of water and the quality of the water pressure that goes to Ladera Towers. And that comment if I recall correctly came from someone from recalling that the original developer was supposed to put in a, upgrade the main water line to Ladera Towers and never did. Since you are before us now, I understand you are before us because of an HPR application but we are talking about the utilities. How is, in your opinion as a professional architect and engineer, how is the water pressure at Ladera Towers? Is it sufficient?

<u>Tim Armour</u> it is sufficient. We have actually done testing on all the hydrants in the neighborhood and the hydrants test within proper standard for fire equipment; so, the neighborhood now has adequate water pressure. And I think that was relieved when they build the water tank right there in the neighborhood.

Commissioner Limtiaco who built the water tank?

Tim Armour there's a GWA water tank just a 100 yards away on the lower right-hand.

Commissioner Bathan so was that built at the time that they were doing Ladera?

Tim Armour no that came after Ladera Towers was built.

<u>Commissioner Limitaco</u> to the best of your knowledge was the original, was the condition of the original NOA for the tower itself, the original construction, was it conditioned to upgrade the main?

<u>Tim Armour</u> I have not seen any conditions that required that. I saw...I have focused on the conditions of the site and the building and those are the conditions that I am aware of. I am not aware of any conditions off-site that were attached to the approval.

Michael Flynn maybe I could speak to that. There was a condition that was imposed by GWA at some point on Ladera Company Ltd. which was a predecessor to our predecessor; and basically the scheme was that this group was going to provide two water wells. And what happened is that they employed a drilling firm that built one of the water wells and cost added up to approximately to \$300,000. Then what they did was enter into an agreement with GWA, various parties signed off on this agreement and Ladera Company Ltd. agreed to pay \$600,000, \$300,000 of which would go to that initial drilling company to take care of the fees, drillings and setting up this first well. And then the remaining \$300,000 was to be ... in GWA's pocket with the idea, I suppose, GWA would then, if they wish build another well. Perhaps they didn't see a need for one at that point. Perhaps they did build one. But at that point out of Ladera Company Limited hands. That's a document that wasn't reflected in the abstract of title, but it was submitted to the staff and attached to a binder that showed how all the conditions had been met that was required by the Commission.

Commissioner Limtiaco you are speaking of the original conditions on the original NOA.

Michael Flynn yes.

Commissioner Limtiaco so all conditions have been met or otherwise

Michael Flynn yes.

Commissioner Limtiaco okay, fair enough.

<u>Chairman Arroyo</u> any other questions? [None noted] Tim you weren't here earlier. In the staff report the staff had recommended additional documents be submitted; we received our copies today, and we just don't have the time today to go through those. I think what we're going to do is we'll just continue this application. Come back at our next meeting and wrap it up. Give us some time to go through all the additional that was submitted and make a decision at that time.

Tim Armour okay.

<u>Chairman Arroyo</u> alright. So the order is to continue the application we'll take a look at it next time. Thank you.

[Application No. 1993-01D – it was the order of Chairman Arroyo to continue the review of this application so that the Commissioners may have ample time to review supplemental documents that were provided at today's hearing.]

Moving on ---

Horizontal Property Regime

B. The Applicant, Lih Pao Investment LLC represented by Freddy Wang, requests issuance of its Final Public Report for Talo Verde Estates Townhomes on Lots 57New-New-1, 57New-New-2, 57New-New-4, and 57New-New-6, Tract 13105, in the Municipality of Tamuning, in an "R2" (Multi Family Dwelling) zone, HPR No. 169, Application No. 2016-11B. Case Planner: Celine Cruz

<u>Celine Cruz</u> summarizes the staff report to include purpose, facts, staff analysis/discussion, conclusion, recommendation and conditions. [For full content/context of the staff report, please refer to Attachment B.]

[Attachment B - Staff Report dated May 25, 2016]

Chairman Arroyo thanks Celine. Any questions.

<u>Commission Limitaco</u> yes we have. I think Commissioner Bathan and I both found the same thing. Celine, the lot numbers.

Celine Cruz lot numbers ... within the original building permit application it was reflected and the construction of these townhomes, I understand haven't ... the building permit references building permit number B12 so that was....they started running building permit in 2012. So, the lot numbers reflected in the occupancies where based on the lots existing at the time. Since the building permits issued on the original lots the owners of the property had a subdivision map approved and the subdivision map was approved, I believe late 2015. And so in part of the reason why they couldn't get occupancy for even the first set of buildings was that DPW wanted to ensure that this occupancy is going to reflect those new lot numbers. But, I think at some point they would go ahead and issue occupancy based on the original building permit and that's why you have that Lot 5147 reference on some of the building permit numbers. And then that second round of building permit numbers ... I don't know, I can't

<u>Commissioner Limitaco</u> some reference a lot, some reference a tract with a new lot number. It's not

Commissioner Bathan it's hard to tie-in with the....

Marvin Aguilar I think it's important to also note that these units or rather the actual structure when they were being built they were built under the original lot numbers if I'm not mistaken. Due to some technical issues that they encountered they had to go through a consolidation, resubdivision creating these new lots with the structures still place. I think part of this include the reduction of the easement at one point or another. As far as how they entered the lot numbers and how they decided upon how to label them

Commissioner Limtiaco I have to acknowledge that there's a document that's attached, and I think it's recorded as well. For the prelim (preliminary) HPR public report, Page 2 gives special attention and it's great that's worded that way because you do have to pay special attention to this. And it does explain, I think sufficiently, the first paragraph (number one) you can follow along. What's confusing is just the building permit number. If there was anything to be done in a future date, back to the Commission or with a homeowner it would be so much easier to resolve the explanation and have a single set of lot numbers that we all could revert to rather than to come back and reference an explanation.

<u>Commissioner Bathan</u> is it hard to get a revised building permit or occupancy permit to show the updated lot numbers?

<u>Marvin Aguilar</u> I think that can be achieved. There are other ways to do it. You can even have it done by affidavit through the building permit Administrator because he was the actual hands and eyes that did the inspection.

Vice Chairman Cruz so do we have the actual survey map that reflects all the changes?

<u>Marvin Aguilar</u> yes sir. Again, at sometime the occupancy permit reflects the original lot numbers or however it was described when the building permit was issued or for that matter when the foundation permit was issued.

<u>Michael Boria</u> maybe whatever's provided by Public Works on the building permit lot number it would also reference the map number that it came for so that these new lot numbers will reflect what the map number is now that it replaced.

Vice Chairman Cruz do you think DPW has a copy of that that's original.

Marvin Aquilar we would have that.

<u>Vice Chairman Cruz</u> we're going to back to DPW and say hey, tell me where this unit number two on this map and I have to look at the (undecipherable) there's some changes on the issuance and everything. I'm in favor of the recommendation of have some sort of an affidavit to reflect the lot numbers and the unit based on your so called master survey map. Because down the line it's not just us but down the line for owners changing hands or some kind of appraisers come up and he says well can you show me an occupancy permit and you have one lot number holding this and another lot number holding that. Chances are the bankers would just say get it corrected and come back.

Commissioner Bathan exactly, might as well fix it now.

Commissioner Limtiaco I agree.

<u>Chairman Arroyo</u> if you can mention your name for the record.

Freddy Wang good afternoon Commissioners. I am the manager of the developer and the applicant Lih Pao Investment LLC. Thank you for giving us the opportunity to present Lih Pao's request for issuance of final report of Talo Verde Estates Townhomes. At February 11th GLUC meeting, the Commission has approved the issuance of the preliminary public report and at that time the certificate of occupancy has not been issued for Phase II which is building 72 (undecipherable), the 42 units. And I am pleased to report that today the certificate of occupancy was issued by Public Works for the remaining 42 townhomes of May 19, 2016. And we are seeking the Commission's approval for the final public report for this project.

Chairman Arroyo any questions.

<u>Commissioner Bathan</u> I just have a minor correction on the letter. You mentioned that GLUC approved your preliminary public report on February 11, 2015 ----

Freddy Wang no, no, no ... this year 2016.

Commissioner Bathan yes, I just wanted to correct that.

<u>Chairman Arroyo</u> you heard the discussion on the discrepancy on the lots.

<u>Freddy Wang</u> yes on the lot numbers of the occupancy permit. I guess we can work with Public Works. I mean it's not a big issue; it was just like a few weeks ago they came to the site and did all the inspection. So, I'm pretty sure they can correct the occupancy permit easily. They'll just have to write up a new one and for them to sign it.

<u>Vice Chairman Cruz</u> did your occupancy permit would that also reflect on the building permit? Building permit would have one lot number and the occupancy permit would have another lot number that you gotta figure out.

<u>Freddy Wanq</u> I don't know because the project ... I guess I have to ... I can talk to Public Works to see if that's possible.

<u>Michael Boria</u> well they're the same permit numbers. The action changed in the middle of ... between building and permit and occupancy permit so you can correct the final one with a note that it changed in between, but it still reflects on the same permit number.

<u>Commissioner Limitaco</u> are any of the townhomes, are they reserved, anyone put down deposits.

Freddy Wang yes, yes we have a few units that's on reserve and with refundable deposits.

Commissioner Limtiaco other than that, I mean I think we really discussed this the last time.

Vice Chairman Cruz how long would it take you to get together with DPW to reflect that thing.

<u>Freddy Wang</u> all we have to do just write up the paper and then go to Public Works and see if they can just sign it.

Vice Chairman Cruz how long would it take you.

Freddy Wang i would say a day or two, hopefully.

<u>Chairman Arroyo</u> that's more of an administrative thing. You're ready to go, you got the occupancy it's just the lot numbers and we don't want to hold you up for that.

Since it is your last day Tricee ---

Commissioner Limtiaco Mr. Chair, I move that we issue a final public report for Talo Verde Estates Townhomes, lot numbers 57New-New-1, 57New-New-2, 57New-New-4 and 57New-New-6 on Tract 13105, in the municipality of Tamuning, an R2 zone under HPR No. 169, Application No. 2016-11B; in favor the applicant Lih Pao Investment LLC pending minor corrections to be submitted to the Chief Planner for his review and acceptance.

Chairman Arroyo and the minor corrections are ---

<u>Commissioner Limtiaco</u> to amend the occupancy permit to reflect the correct lot numbers. I'm sorry, excuse me. To reflect the correct lot numbers and that this final public report expires thirteen months from date of recordation of the Notice of Action.

<u>Chairman Arroyo</u> okay, so there's a motion is to accept and issue the final public report which expires thirteen months from date of recordation (of the NOA) with the condition that the lot descriptions be reflected on the certificate of occupancy to show the current lot descriptions. Is there a second?

Commissioner Bathan second.

<u>Chairman Arroyo</u> any discussion? [None noted] All in favor of the motion say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioners Limtiaco and Bathan], all opposed say "nay."

Motion is approved, good luck.

[Action – Motion to issue the applicant's final public report was passed unanimously; 4 ayes, 0 nay.]

Zone Change

C. The Applicant, Mr. Sang Hon Yi represented by W.B. Flores & Associates; request for a zone change from "A" (Agricultural) to "M1" (Light Industrial) zone for the proposed

construction of an automotive repair and fabrication shop on Lot 5221-1-6, in the municipality of Barrigada, under Application No. 2014-33. Case Planner: Penmer Gulac

<u>Chairman Arroyo</u> we have an item on the agenda this is application number 2014-33 which is postponed so we are taking that off the agenda.

Marvin Aquilar this was the technical issue we had with it (refers to the photograph). Somebody had vandalized the sign. As about 3 hours ago, 2 hours ago we received the new sign with a new date on it.

[Discussion ensues on the technical issue with the notice billboard]

Chairman Arroyo okay, so moving on to the next item on the agenda.

Tentative Development Plan/Zone Variance

- D. The Applicant, City Hill (Guam), Ltd., represented by Duenas, Camacho & Associates; request for a zone variance for setback and height for the proposed construction of a 6-level parking garage on the northwestern portion of Lot 5058-R3NEW-1, in an "H" (Hotel/Resort) zone, in the Municipality of Tamuning, under Application No. 1996-60C. Case Planner: Frank Taitano
- E. The Applicant, City Hill (Guam), Ltd., represented by Duenas, Camacho & Associates; request for a tentative development plan for the proposed construction of a 6-level parking garage and access road on the northwestern portion of Lot 5058-R3NEW-1, in an "H" (Hotel/Resort) zone, the Municipality of Tamuning, under Application No. 1996-60B. Case Planner: Frank Taitano

Marvin Aguilar this is actually a two-part application; 60B and 60C, I'll go ahead and proceed with the tentative development plan. [Mr. Aguilar reads the staff report to include purpose/facts, staff analysis and discussion, conclusion, recommendation and conditions. For full content/context, please refer to Attachments D/E.]

[Attachment D/E - Staff Reports dated May 12, 2016]

[It was noted for the record that the staff report read by Chief Planner Aguilar was for Application No. 1996-60B for the Tentative Development Plan and not Application No. 1996-60C as read by Chairman Arroyo.]

<u>Marvin Aquilar</u> if you like I can proceed to reading off or give the floor ... reading of the request for the variance?

<u>Chairman Arroyo</u> I think we'll just go ahead and go through this and then I think the variance will probably go pretty quick.

Any questions.

<u>Vice Chairman Cruz</u> I have a question. In your ... in the application the drawing about the egress/ingress on Santos side it shows Exhibit J requesting about the curb or divider or whatever you want to call it. It says the existing traffic island proposed for removal. I'm looking at the ARC and DPW had nothing to do with. Did they mention anything so .. did they think that's a safety factor.

<u>Commissioner Bathan</u> I think at the public hearing it was mentioned that there is a concern on safety by removing the existing island.

<u>Chairman Arroyo</u> okay, so we'll open the floor to the applicant. If you could please state your name for the record.

<u>Claudine Camacho</u> (with Duenas, Camacho & Associates) good afternoon. I am representing City Hill with this tentative development plan application. Joining me today in the audience is Ms. Joann Batacan and Mr. John Setiadi of Setiadi Architects, and they have prepared the site plans. And also joining me is John Duenas, a Civil Engineer with Duenas, Camacho & Associates and he can elaborate on any engineering or infrastructure related questions.

Thank you for entertaining our application. I am going to go through a very brief slide deck to familiarize the Commission with the project and its location.

This is Tumon and we have here upper San Vitores and lower San Vitores and in between we have Guam Plaza Hotel, Tarza Waterpark and the BOH or back of the house parking. And you can see it's just nestled truly in the back of the house the back of this Guam Plaza and water park development. This is just a close up, detail of our project area; waterpark again and of course the back of the house parking. And the back of the house parking currently provides 74-surface parking stalls for the employees of Guam Plaza, and it's back there it's not meant to be for the main patrons it's really for the employees and that's why it's kind of nestled in the background.

So just brief description. Of course this is an "H" zone property and that's we're required to come before with a tentative development plan for any proposed activities in an H-zone. It's a nine acre parcel; and Mr. Aguilar talked about the access from lower San Vitores coming through the T-Galleria (the former DFS Galleria traffic signal) which is often a very congested area and that is something that our client would like to address with this project is to relieve some of that congestion by providing a new access road to upper San Vitores and so there will be an alternative access to this parking facility.

The property is bound on two-sides the north and eastern side by a steep cliff. The vegetated areas in the background and to the right that's the steep cliff-line that we were referring to and

that is what is driving the height variance and setback variance because the client would like to avoid encroaching into the steep cliff-line areas as much as possible and avoid disturbing those areas. So, they are looking for a little of a variance from the required 10-foot setback to a zero-lot line, and we do have support from the neighbors for this request and that's in the application.

Ms. Camacho continues to explain that this project is a six-level parking garage but truly a 4-storey building because the lowest level is a basement and is below the grade plane and the upper most level is roof top parking and has no walls. 280 stalls are being provided which exceeds the required 51 stalls based on the warehouse space uses that are proposed and in addition to that they are providing 16-two more stalls than what is required for bicycle park and also exceeding what is required for the American Disability Act requirements. The basement level will primarily be used for storage of dry goods, ground level will accommodate office space to include executive offices, and some parking stalls and the remaining upper floors will be used for parking. The height is taken from Level P-5 which is 115-feet above ground level and that is not including the parapet which according to design code is an allowable use of the height; applicant is looking at a total building height of 46-feet and seeking a height variance of 16-feet.

Public contribution by this project and this is also evident by the support letters that were received and there were no negative comments to this project at the public hearing they were supportive of it it was just that one particular issue regarding traffic. This project will reduce traffic congestion at lower San Vitores by providing an alternate access to upper San Vitores for the employees of the hotel and JP Super Store. It will free up some of the existing parking stalls for the Guam Plaza patrons and this will free up some stalls in the front and side where it's more for the customers. This project will not have a heavy burden on utilities. It's really parking oriented; there will be some for office and warehouse use, but it's not going to demand a whole lot of water, not generate a lot of sewer and it is taking care of all its storm water. We heard from the public at our hearing that storm water is a concern; all of the storm water is being contained on site, responsibly with infiltration basins.

Aside from the two-percent of the project budget being committed towards landscaping, the client is going above and beyond that by working with the architect and designing and incorporating a green wall system into this parking garage. They are very sensitive to the location in the Tumon setting, resort setting. They designed a green wall system, which will include some native, non-native but not invasive species.

The project will need a setback on the west and northern sections because the applicant does not want to encroach onto the cliff located on the north and eastern boundaries of the site. They will be providing an access to upper San Vitores. In response to safety concerns, the client will not be pursuing the removal of the traffic island at the upper San Vitores intersection. They don't want to create any accidents or safety issues; safety is foremost. They will allow right-turn in and right-turn out movements at this intersection but not any left-turn in so there will be no need to remove that island. An alternative access point could be from lower San Vitores to Fuji-Ichiban and then existing at upper San Vitores. They will work with the existing circulation

system there, but they will not remove the traffic island. We did try to pursue discussion with DPW it was just the person was never available.

Michael Borja it that going to be a route for buses or just vehicles/cars.

<u>Claudine Camacho</u> it's going to be for cars, vehicles of the employees of the facility. Now the patrons of the adjacent Fuji-Ichiban and Rotary Sushi will have their access preserved on the west side coming in from lower San Vitores, they have extended that courtesy for those patrons and I believe there is even an agreement in place. So, it's something formalized between the two entities.

Chairman Arroyo where is that parking for Fuji-Ichiban and Rotary Sushi?

<u>Claudine Camacho</u> it's kind of shown by the red arrows, and there's some signage for the surface parking the 74 stalls that are existing right now. So, they are allowed to park there, but this parking garage will have security, it will have lighting, it will be even a more secured facility.

Chairman Arroyo so there will be no parking in this structure.

<u>Claudine Camacho</u> there will be. They are going to extend that courtesy once this is complete so that they'll still have that option for spill over parking for those patrons. And they have worked out formal agreement to that effect with their neighbors.

<u>Marvin Aguilar</u> just for the Commissioners' benefit and for the record again, this parking structure is actually sitting on an existing parking footprint right now. Notwithstanding all the peripherals (driveways and what not) for the most part it is on top of this back of the house parking area.

<u>Claudine Camacho</u> that is correct. Right now there are 74 surface stalls. What is happening is they are putting a basement below that, an office above it and then parking above that and so it is occupying generally the same footprint as the surface parking they are just going up.

Michael Borja what level does this road enter into the parking garage?

<u>Claudine Camacho</u> it enters into P-1 or the ground level. So it is very convenient for either side. It's right onto lower San Vitores and then it will take you up to upper San Vitores. We had looked at an option of coming into the top level P-5, but then it would require to go through the whole parking structure to go out so this is the more convenient access.

[Continues with the presentation to include slides of the access road; view of the parking structure and green wall system that is being proposed; more detail on the green wall system; view of upper San Vitores looking towards lower San Vitores. Ms. Camacho explained that you can see what the parking structure would look like and that it is set down below the height of upper San Vitores Road and submerged so it will not have impacts to the view of the adjacent

residences or commercial use. She added that they have done the analysis to that effect and it will not affect the existing views of the surrounding buildings.]

<u>Chairman Arroyo</u> is the road winding like that because you are going down a slope and coming up a slope?

Claudine Camacho that is correct. And that is it, so I can entertain any questions at this time.

Chairman Arroyo any questions?

Commissioner Bathan I understand that this parking structure it will be serving Guam Plaza Hotel and JP Super Store and businesses adjacent to it. It is good that we have parking, more parking in Tumon because it is really good for business and good for the community. But, as I noticed at the other hotels right now there are a lot of reserved parking for taxis and rent-a-cars and I am wondering if this parking facility will also have reserve parking for those business that will reduce the number of parking available for the public and guests.

Claudine Camacho I believe those uses are accommodated by the front parking at the lobby area. There are 69 stalls there and there's also an adjacent three-parking structure with 189 stalls already in the front portion of the hotel. The primary use for this is really to consolidate the employee parking. This is not meant for buses and taxis and things like that. It is really just as a courtesy extended to their neighbors. They are going to allow spill over parking of those patrons. But those buses and taxis will still be using their allotted slots in the front of the hotel; the 69 stalls and then the existing parking structure that is there. It is much safer for circulation this is too narrow in the back for buses.

<u>Michael Boria</u> is the hotel, JP Store Super going to have some sort of access from this garage so that if we wanted to go eat at a restaurant we can park in here and come in from behind so is that just an employee entrance in the back of the hotel.

<u>Claudine Camacho</u> it will connect to the hotel. I couldn't say at this point because that hasn't been designed. But it is primarily for employee use; it will have the offices and the warehouse there so it's not like a principle parking for patrons but it will accommodate patrons should they want to park there for whatever reason.

<u>Chairman Arroyo</u> the parking that you have now, the back of the house. You said there were seventy-sum stalls there?

Claudine Camacho 74.

Chairman Arroyo are those to meet your parking requirements for your existing facility that 74? I guess the question I am asking is what happens to that parking area once you start construction and the cars that park there now where would they go?

<u>Claudine Camacho</u> City Hill is going to work with its employees. They have about 300 employees and a majority of those are day shift-employees, but they have over 300 existing stalls without this surface parking. So they will work with their employees and accommodate them. They are still working out a particular area if there is a need for spill over parking or car pooling their employees.

<u>Chairman Arroyo</u> so the removal of those 74 stalls won't impact on their parking requirements as they exist right now.

<u>Claudine Camacho</u> no, because they're going to accommodate them elsewhere in their parcel or they will find another area for them to park, and they have some options that they are looking at and trying to determine if that's

<u>Chairman Arroyo</u> I am not necessarily concerned where they park. I'm just ... they are supposed to have a set number of stalls. And I guess I am asking is would that, the removal of them violate that requirement.

<u>Claudine Camacho</u> there would still be sufficient parking because they have so many within the compound, yes.

<u>Chairman Arroyo</u> so right now they have more than they necessarily ... more than 74 that they necessarily need.

<u>Claudine Camacho</u> without the surface parking they already have 336 stalls including their front parking, the parking garage and then they have additional parking where the (inaudible) old residence is and that is for the patrons of the water park; that one provides 78 stalls just on its own. So, there is sufficient parking within the compound.

Commissioner Limtiaco Claudine, in your presentation and in your write up you mentioned that the warehouse portion of this parking garage is going to be just dry goods. It doesn't sound like there are food items, there are offices and meeting rooms. But in the drawings, specifically A-101 and A-401, it looks like the loading dock is designed to accommodate freezer containers. When I see a freezer container, I think of a reefer that has perishable items. What is the purpose of that design? I want to clarify that I am asking only because you're coming in before us for a specific purpose and so far this is not to accommodate food storage so that they're not having a food storage warehouse in a parking garage.

<u>Claudine Camacho</u> I am go to defer to our architect who is here or Ms. Yoko Pipes; I would like to just acknowledge representing City Hill we have Ms. Yoko Pipes, the Property Manager.

<u>John Setiadi (Architect)</u> good question. There is currently an existing container in the location on the lower level and so it will not be located inside the new project, but it will remain as a container outside the project. So that is what it's showing there. It is not going to go inside the garage. It's an existing container for the restaurant.

I am sorry we don't have the floor plan but I think I can point it out by using this (referring the slide). This is the lower San Vitores there is an existing driveway which accesses the lower level and this portion here is the restaurant. So, currently there is a loading and unloading area right here and there is an existing container right at that location and that container will remain outside the new project.

Vice Chairman Cruz who owns the container.

John Setiadi the restaurant.

<u>Commissioner Limitaco</u> so you are not only adding one but you're equipped space for the two more.

<u>John Setiadi</u> those are existing containers that we just assigned a space in front of the new building.

Commissioner Limtiaco okay. So, it is intended for the restaurants to be used independent reefers. I was worried that this was going to be a cold storage warehouse.

[Discussion ensues on access/entrance/exit to the parking garage.]

Vice Chairman Cruz so there's no containers coming in and out of there.

John Setiadi no.

<u>Commissioner Limtiaco</u> this is a tight area so based on the turning radius into and out of the parking garage whether you're going through Guam's Lombard road or through the lower San Vitores you know Fuji-Ichiban entrance, what would be the maximum class vehicle that could allow adequate training.

John Setiadi for safety purposes we make sure that this road can accommodate a fire truck for example.

Commissioner Limtiaco so that would be the fire entrance only.

<u>John Setiadi</u> yes for fire and ambulance. Although it is not for patrons but more for the employees. We want to make sure that safety is taken into consideration.

Commissioner Limtiaco box vans would not necessarily

John Setiadi no, a 20-foot container and all those big trucks are not meant to be using this.

Commissioner Bathan what would be the speed limit on that Guam Lombard.

John Setiadi we didn't put it as a private road so I would say 15-MPH.

<u>Vice Chairman Cruz</u> so during your construction period where would your ... during construction period where would the contractors or whatever you call it ingress and egress.

<u>John Setiadi</u> that is a good question. That will depend on the construction phasing and methodology. I mean if I were the contractor I think the first thing I would do is to build the road first, but you never know.

<u>Vice Chairman Cruz</u> the only reason is you have traffic to worry about during construction. You're going to have concrete mixers going in and out and everything. I could imagine them making a right turn going from lower San Vitores into the project.

John Setiadi this part is a lot of commercial activities and you want to avoid that.

Vice Chairman Cruz the dark lines there that's the property line?

<u>John Setiadi</u> the dark line is the outline of the building, the property line is about a foot away from the dark lines, and this is the other property line (referring to the slide).

Commissioner Bathan who maintains the roads?

<u>John Setiadi</u> the owner will have to maintain the road so it is not meant to become a public road.

Commissioner Bathan about the roads where

<u>John Setiadi</u> this one (referring to the slide)? It's not a road it's a driveway that belongs to this property owner. They have an agreement to ... this place has insufficient parking space so they have been parking actually in this location.

Commissioner Limtiaco is there an agreement in writing that will execute that.

John Setiadi there is an agreement in writing, yes.

Commissioner Limitaco I didn't see it in the application.

John Setiadi so the owner of this is Ms. Yoko Pipes maybe she can explain more about the agreement.

Yoko Pipes (City Hill Guam) we do have an agreement, but I have to get okay from both sides to present it.

<u>Commissioner Limtiaco</u> so it is executed, it has been signed by both parties.

Yoko Pipes yes, it has been signed.

Vice Chairman Cruz I think it should be included so that there'll be no dispute between access.

Yoko Pipes if it's required, yes.

<u>Chairman Arroyo</u> this is a tentative development plan and part of the plan is to share your parking so that would help us if we had that agreement.

Yoko Pipes I will get it to you.

<u>Chairman Arroyo</u> any other questions? [None noted] Okay so what I would like to do right now is just open the floor for public comment. If there is anybody out there who would like to say anything, provide comments with respect to the tentative development request.

No comments; so, I'll close public comment period.

<u>Commissioner Bathan</u> I have one more question if I may. You know the warehouse and the office that will be relocated on the parking, will that be coming out from existing office and warehouse or is it additional. I guess my question is if it's a relocation of an existing office or warehouse from the existing what will be the use of the existing office and warehouse.

Marvin Aguilar that's going to be vacated?

Commissioner Bathan yes, what will be the use of those facilities.

Yoko Pipes probably storage; we don't have enough storage.

Vice Chairman Cruz not rooms for people to occupy.

Yoko Pipes not at this time. It will be the warehouse site is expanding to for retail space that we have. Right now the warehouse is part of retail floor.

<u>Commissioner Bathan</u> how big is that existing space that will be relocated to the proposed parking warehouse office space.

<u>John Setiadi</u> maybe I could clarify. So this warehouse is additional warehouse space it is not a relocation.

Commissioner Bathan what about the office because there's also an office.

<u>John Setiadi</u> the office could be consolidated. That is something that may take some of the existing office space that is currently adjacent to the restaurant space. In this corner where the restaurant is (refers to the slide) there is in the lower level there is existing office spaces and so

those office spaces will be relocated to this upper lower and that is at the very back of the restaurant.

Commissioner Bathan what would be the use for that.

<u>John Setiadi</u> probably would become additional storage because they don't have enough storage right now.

Vice Chairman Cruz so in otherwords it's not going to expand the restaurant.

<u>John Setiadi</u> no, because it's at the corner and I don't think it's feasible because it's not directly for public direct use.

<u>Claudine Camacho</u> just to answer your question; the office space will be 8,897 square feet and the warehouse storage will be 11,087 square feet.

Chairman Arroyo any other questions.

<u>Commissioner Limtiaco</u> I forgot to ask a question to the Chief Planner. Chief Planner, when we got your report I didn't hear whether or not you reported if the applicant is in good standing regarding the conditions imposed from previous NOAs.

Marvin Aguilar good question ma'am. I would say that they are. I haven't vetted it to affirm that. I think it's important to note that some of the actions that have been done by the Commission was to grant variances and in particular to grant variances for parking and I think density. They are familiar with this process and what's ... and the need to commit to these requirements. I think I can say that at this point.

<u>Commissioner Limtiaco</u> okay. Mr. Chair, I wanted to comment, it's not a question. This client's environmental impact statement is one of the most well written ones that I have read in my five years on the Commission. So, good job Claudine.

<u>Chairman Arroyo</u> so I think the members of the Commission...before we make a motion on the tentative development plan, I kind of want to move into application "C" the variance for height and setback. If you want to add anything in addition to what you've already said.

Marvin Aguilar the staff report kind of mirror each other with the exception of the requirements in the Zoning Law for the request for variance height and setback. I think for the record it's really important that they are basically requesting for both the setback and height because of the constraints due to extreme topography on the property. So, I could read out that portion here sir. [Mr. Aguilar summarizes the staff report to include the justification, staff analysis/discussion, recommendation and conditions. For full content/context of the staff report please refer to Attachment E, dated May 12, 2016.]

Chairman Arroyo Marvin, can you just discuss the public hearing.

Marvin Aguilar perhaps maybe I can defer to Mr. Frank Taitano on the public hearing.

<u>Frank Taitano (Case Planner)</u> there is issues in reference to location, people basically more concerned about the location because of the view and the use of the proposed structure. There was no objection to the proposal except that they do have concern in reference to the proposed entrance in the upper San Vitores. They did recommend or Mr. Brown himself and the Vice Mayor they recommended that the applicant work with the Department of Public Works to determine the most appropriate means to accommodate that entrance to address public safety. There were concerns that if they remove that island there that it will propose some kind of safety issue.

<u>Commissioner Limtiaco</u> Frank, in your minutes it shows that Ms. Catherine McCollum is an MPC member of the Tamuning Municipal Council and it shows that both the Tamuning Mayor and Tamuning Vice Mayor were present. Were there any other MPC members there? We're concerned. We want to make sure that Tamuning MPC is in full support of this application. Was there a resolution?

<u>Frank Taitano</u> the Mayor herself and the Vice Mayor basically said that they were suppose to be having a municipal planning council meeting for the 9th of this month, and they were supposed to submit some kind of response to it. But they weren't really, the Mayors weren't objecting to...there's no objection.

Commissioner Limtiaco not verbally.

Commissioner Bathan we just want to make sure.

<u>Frank Taitano</u> they were basically in support of it because it's additional parking. In fact, Mr. Brown or there's another gentleman there who wanted to find out if he will be able to find parking in the front of the building because he ususally has problems finding parking.

<u>Commissioner Limtiaco</u> normally for any of these applications, I don't know quite sure about the TDPs, but for any variances, conditional uses, certainly for zone changes, whether there is a statute in place or not we value the opinion and the say of the affected jurisdiction's MPC. So, in my recollection of all tentative development plans it was not required. But I'm really glad, Mr. Chair, to read that both the Tamuning Mayor and Vice Mayor and an MPC member was there. And I agree with Mr. Frank Taitano in review of these minutes does not look like they are objecting to this, and I think we should move forward.

<u>Michael Borja</u> also I want to note that on the Application Review Committee members, their responses were all submitted since December and January. So you know, they all had ample time to review this process and their meeting since April for this public hearing they should have at least two meetings for their MPC to come up with a resolution.

<u>Marvin Aguilar</u> and for the Commission's benefit these applications are distributed to the ARC it is likewise distributed to the MPC.

<u>Chairman Arroyo</u> when did the Executive Order including the representative from the Mayor's Council when did that become effective?

Michael Borja no, that was a public law.

Chairman Arroyo that was public law? When did that become effective?

<u>Michael Boria</u> that was in the middle part of last year. But we had already been doing it. We just...we codified, well they codified it more because they felt they weren't being paid attention to, but their original bill only changed the section of the Code that dealt with the Mayors, not the section of Law that dealt with the Land Use Commission so we corrected them to correct both sides.

<u>Chairman Arroyo</u> so, was there a representative from the Mayor's Council at the ARC meeting?

Marvin Aguilar no, I think I can pull up a letter that we prepared for them.

Chairman Arroyo but nobody was present.

<u>Michael Borja</u> we invite the Mayor's Council and however they want to do it and if they show or not is their

Vice Chairman Cruz is the MCC but not the MPC right.

<u>Michael Borja</u> no, the Mayor's Council is who is invited to the ARC. But we send the specific application information to the appropriate municipality MPC.

<u>Commissioner Limtiaco</u> and of course the public meeting is held in the affected jurisdiction. And Frank just to be clear, it says that the public hearing was conducted at the Tamuning Senior Citizen's Center correct? [Mr. Taitano responds "yes ma'am."]

<u>Chairman Arroyo</u> and to make clear we're not sure a resolution was ever received.

Marvin Aguilar no sir.

<u>Chairman Arroyo</u> any other questions? [None noted] I'll open it up ... now this is for the height and setback variance if you want to say anything more about that.

<u>Claudine Camacho</u> just to emphasize that the client really was trying to do the right thing and avoid encroachment on the cliff to the north and east and that's what was driving the structure to

go more vertical instead of horizontal and make it a more compact structure trying to fit over the existing surface parking area.

<u>Chairman Arroyo</u> any questions? [None noted] I have just one question. That lot on the corner where it's like a 5 inch Lot 5051-R2. Did you get anything from that property owner regarding the zero setback?

Claudine Camacho I believe that is Mr. David Su.

<u>Yoko Pipes</u> actually we went to see the owner and explain the project and he said that he is going to give us a supporting letter and I have been following up but he never did. But verbally he said he has no objections. I gave him the plans that I had.

Michael Borja where is the notice to rezone site?

<u>Claudine Camacho</u> it's up on the hill...it's very visible; it's facing upper San Vitores across the Tagada, Bayview ... very visible.

Commissioner Limitaco it is. I pass by and always wonder what is going on there.

Michael Borja did we have to send out letters to any people around the radius?

Frank Taitano for the variance yes.

<u>Commissioner Bathan</u> I have one more question. Is your parking stall designed for compact vehicles or regular vehicles?

John Setiadi all regular.

<u>Chairman Arroyo</u> any other questions? [None noted] Okay, I'm going to have to open it up again for public comment. Is there anybody who would like to make a comment or ask questions?

Public Comment [Seeing none, Chairman Arroyo closed public comment period]

<u>Chairman Arroyo</u> we're going to move on both of these applications but we'll have separate motions. Is there anything you would like to say before we make a motion on either one of your applications?

<u>Claudine Camacho</u> just to emphasize that we did get letters of support from the nearby business and they are very supportive, and feel that City Hill that is acting very responsibly and increasing the amount of parking which is needed in the area and as well as their approach is in very much in line with the Tumon resort setting. They've gone above and beyond as far as landscaping.

John Setiadi I just want to share that my company has worked with the owner, Mr. and Mrs. Yoko for many years, and I must say that as a long time resident of Guam they are very committed to the development around their properties. So, that is something that I would like to share that they are fully aware of what is the right thing to do and what not to do. I just wanted to share that with you. There is no intention to this to do anything beyond excellence.

Michael Borja and we recently coordinated with them on the bull-cart trail corrections.

<u>Chairman Arroyo</u> before we move forward I just want to ask one question or if you could expound a little bit. There's a lot of issues with flooding in that area and you guys are just right up the street from where it all floods down. Can you explain a little, just for the record, your storm water catchment and how you are going to retain that water on the property. I think I read something that Guam EPA commended you on your design.

<u>Claudine Camacho</u> I believe it's going to be an underground infiltration basin in the P1 or ground floor level nestled towards the cliff and that are is highly permeable limestone (undecipherable) so we expect it's going to catch or accommodate all the storm water generated by the impervious surfaces. Maybe John Duenas can collaborate on the system.

John Duenas I think a lot of us are old enough to remember the old Guam Plaza area where they have that open pit. Remember that? It was an open ponding basin. They use to channel their runoff into that basin. When they re-developed the area we actually designed a ponding basin used double-ts (?), made it quieter, bigger so there's an underground, out of sight ponding basin that they used for the existing facilities. So, they are very conscious of storm drainage requirements. The area is highly permeable, and putting in infiltration galleries is the thing to do because you can build above it and it doesn't require any additional area for ponding other than what is below ground.

<u>Claudine Camacho</u> it's very much in keeping with the Tumon resort setting. We don't want all of that displayed for the visitors.

<u>Chairman Arroyo</u> great, we thank you for that. Any other questions? [None] On Application No. 1996-60B which is the tentative development plan a motion please.

<u>Commissioner Limtiaco</u> Mr. Chair, I move to approve Application No. 1996-60B a tentative development plan for the proposed construction for a 4-storey, 6-level parking garage and access road on the northwest portion of Lot No. 5058-R3NEW-1, in a hotel zone in the municipality of Tamuning; with the following conditions:

- a. That the applicant shall adhere to all ARC conditions/requirements as stipulated in each official position statement;
- That any future additional development or changes to the approved site plan shall require the applicant to submit an amended TDP application for review and approval by the GLUC;

- c. That the applicant shall provide a landscaping plan with an engineer's or architect's certification pursuant to Section 5G of the Interim "H" Resort/Hotel Rules and Regulations for review and approval of the Chief Planner;
- d. That pursuant to the Interim "H" Resort/Hotel Rules and Regulations, paragraph F; the infrastructure improvements as specified in the TDP shall be completed within 1-year from date of Commission approval; and,
- e. The applicant shall also ensure compliance to the 1-year time restriction that states a "grading or building permit must be obtained from date of recordation of the Notice of Action otherwise the approval as granted by the Commission will be null and void per Executive Order 96-26, Section 5."

<u>Chairman Arroyo</u> so we have a motion to approve the request for the tentative development plan subject to conditions 5a thru 5e on the memorandum from the Chief Planner. Do I have a second.

Commissioner Bathan second.

<u>Chairman Arroyo</u> moved by Commissioner Limtiaco, seconded by Commissioner Bathan. Any discussion?

<u>Commissioner Limtiaco</u> you know sir, the discussion regarding this TDP is the foregone discussions here regarding the topography of the land; how they have challenges to have a nice, but functional area and then grow as a community is I think exactly what the GLUC expects of the owners of hotel zoned lots in Tumon. So, kudos to this applicant.

<u>Chairman Arroyo</u> and I would just like to that just the greenwalls is going to look very attractive. Any other discussion, comments? [None]

All in favor of the motion please say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioners Limtiaco and Bathan], all opposed say "nay."

[Motion passed unanimously; 4 ayes, 0 nay]

Chairman Arroyo so on application 1996-60C ---

<u>Commissioner Limtiaco</u> I move to approve Application 1996-60C request for a zone variance for setback and height for the proposed construction of a 6-level parking garage on the northwest portion of Lot 5058-R3NEW-1, in a hotel-zone, in the municipality of Tamuning with the following conditions:

a. That the applicant shall adhere to all ARC conditions/requirements as stipulated in each official position statement;

- b. That any future additional development or changes to the approved site plan shall require the applicant to submit an amended TDP application for review and approval by the GLUC:
- c. That the applicant submit a new site/master plan in accordance to the as-built conditions for the Chief Planner's review and approval; and,
- d. That the applicant shall provide a landscapring plan with an engineer's or architect's certification pursuant to Section 5G of the Interim "H" Resort/Hotel Rules and Regulations for review and approval by the Chief Planner.

<u>Chairman Arroyo</u> okay, so the motion is to approve the request for variances for height and setback; do I have a second?

Vice Chairman Cruz I second.

<u>Chairman Arroyo</u> okay so moved by Commissioner Limtiacio, seconded by Vice Chair Cruz. Any discussion? No, discussion.

So on the motion – all in favor say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioners Limtiaco and Bathan], all opposed say "nay."

[Motion passed unanimously; 4 ayes, 0 nay]

Chairman Arroyo good luck. If we could take a 5 minute recess.

[Commission recessed at 3:50 p.m. and reconvened at 4:00 p.m.]

Chairman Arroyo we're back in session. The next item on the agenda ---

V. Administrative & Miscellaneous Matters

Zone Variance/Renewal

F. The Applicants, Brian and Jennifer Na; requsets renewal of a previously approved use variance for an existing retail/convenience store and residential home (on the second floor), on Lot 9, Block 1, Tract 159, in an "R1" (Single Family Dwelling) zone, in the Municipality of Yigo, Application No. 2013-08B. Case Planner: Celine Cruz

Chairman Arroyo Celine ---

<u>Celine Cruz</u> summarizes staff report to include purpose, facts, staff discussion, and recommendation/conditions. [For full content/context, please refer to Attachment F.]

[Attachment F -Staff Report dated May 24, 2016.]

Marvin Aguilar and the Case Planner had taken the liberty of taking some photos of the facility. Well maintained, well kept. [Refers the photos projected on wall monitor]

Celine Cruz I took these pictures to show that there was not, the advertisement didn't exceed what was allowed; yeah just mindful of that. It was very happy to hear that the storekeeper who really didn't know who I was and I asked if there was a restroom and she's like yeah over there. They really... customers or anybody walking into the store to use it. And then I just asked her oh do the bus riders are they able to use the restrooms and she said yeah. So we think the owners of the store really want the community to accept what it is and want the community to feel the benefit of having the store there.

Chairman Arroyo the structure right next to it you said is vacant.

Celine Cruz it's an R-1 zone. There was a duplex on the property prior to which the duplex got grandfathered when the zoning changed for that particular property. And so a condition of approval was that there only be one dwelling unit. The duplex had to be not gutted out, but they had to remove the kitchen area in order to show that it would not be used as a residence. Although, in talking to the applicant she expressed the desire to have that rented out again. And I understand her wanting to do that because ... I don't know if you all remember, but this particular store with the residence on top in particular they were, they had an home invasion there and her thought is that if they had tenants there and the more people that were there the more they could look out for the area. And so I think they just wanted to prove that ... they were giving to the community before they asked anymore. I wondered why they didn't put that into this request. They were just saying that they wanted to take things one step at a time. She explained to me how they did access the upper area which was through ... climbing through the duplex on top of the duplex.

<u>Commissioner Limitaco</u> that wall there that connects it is it just a wall that just blocks and alley way or is it an actual thorough way that's open to buildings; that connects the building to go from interior to

Marvin Aguilar that's the only connect between the two structures is just that wall. Yeah.

Commissioner Limitaco behind that wall is an empty space without a roof.

Celine Cruz dead space, yes.

Marvin Aguilar breeze-way ... the wall wasn't there it would be a breeze way.

Chairman Arroyo can you go back to the other photo....how did they get to the second floor?

<u>Celine Cruz</u> when they did the home invasion they climbed onto the duplex and worked their way over to the residence.

Commissioner Bathan do they have CCTV in the facility?

Celine Cruz now they do, and they monitor across the street at the bus shelter.

Commissioner Limtiaco oh that's nice.

Commissioner Bathan that's a good community service.

Chairman Arroyo any other questions?

<u>Commissioner Bathan</u> I just have a question on the certificate of occupancy that's attached to the application. It says to construct a 4-bedroom residential. Is there another ----

<u>Celine Cruz</u> no, because they secured a building permit prior to any action taken by the Commission and the building permit stated a 4-bedroom residence and really that's just the dwelling unit on the second floor. The bottom was just an open bay designated as a carport before they

<u>Vice Chairman Cruz</u> they closed it. The only thing they didn't ask back then was if they could have submitted an as-built building. Originally, the building was two-storey and the bottom was open.

Celine Cruz they actually originally came in for a zone change

<u>Commissioner Limtiaco</u> we said no not yet; there were too many zone changes at the time.

<u>Chairman Arroyo</u> if there aren't anymore questions then I'll open the floor to the applicant...go ahead please and if you could just state your name for the record.

Ray Benavente good afternoon Commissioner members, my name is Ray Benavente with FC Benavente Planners and we are representing Jennifer and Brian Na. Right now the clients are off-island on a family trip in Korea. They wanted to be here. Working with Celine these past few years on this roller coaster from zone changes to issues with the client having the contractor build before the decision was made and then adjustments. I think overall it came out pretty good. The client has what they wanted is serving the community. Like I you said the busstop...again. Right now the client is really trying to learn how Chamorro tradition food like empanadas and all that from a Korean descent. They're learning that the community is also wants certain ... using the restroom that was something they agreed on and then the camera. We noticed the camera on the school kids and the Mayor was really happy for all of that that kids are now being monitored, the parents can park. We fully support Celine's report and request for the Commission's approval.

Chairman Arroyo any questions?

Commissioner Limtiaco no questions for me.

<u>Chairman Arroyo</u> I'll open it up for public comment; if there is anyone who would like to say anything with regard to the application? [None noted, public comment period was closed]

Anything else you would like to say before we make a motion on the application.

<u>Commissioner Limtiaco</u> I would like to point out that we have a letter from Yigo Mayor Rudy Matannane dated April 11, 2016 in full support of the applicant's request to extend their variance to a permanent variance.

Commissioner Bathan how about the MPC?

Commissioner Limitaco no, unfortunately I did not see a letter from the Yigo MPC.

<u>Chairman Arroyo</u> well that's unfortunate. Any other comments? On the application, do we have a motion.

<u>Commissioner Limitaco</u> Mr. Chair, I move to approve Application No. 2013-08B for a renewal of a previously approved use variance for a retail/convenience store and residential home on the second floor on Lot 9, Block 1, Tract 159, in an R-1, single family dwelling zone, in the municipality of Yigo with the following condition:

That a permanent variance be granted for as long as the applicant continues to adhere
to the conditions of the approval that required continued maintenance and upkeep as
noted in Conditions 1 thru 5 of the Notice of Action recorded under Instrument No.
865565.

<u>Chairman Arroyo</u> okay, so the motion is to renew the previously approved use variance with the condition that the applicant continue to adhere to the conditions and to make it a permanent variance with the condition that the applicant continue to adhere to the conditions of approval. Do I have a second.

Commissioner Bathan I second.

<u>Chairman Arroyo</u> motion by Commissioner Limtiaco, seconded by Commissioner Bathan. Any discussion?

Just real quickly. Are there any guidelines on how we'll be assured that they continue to the original conditions?

Marvin Aguilar we do inspect them.

Chairman Arroyo okay. Any other discussion on the motion? [None]

On the motion; all in favor of the motion say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioners Limtiaco and Bathan], all opposed say "nay." Motion is approved.

[Motion passed unanimously; 4 ayes, 0 nay]

Let's move on, we're up against the time ---

Agricultural Subdivision Map

G. The Applicant, Mark Zhao pursuant to P.L. 28-128, Section 1(a) requests approval of its Agricultural Subdivision Map DLM 044FY2015, Lot 7024-4-6B-3NEW, in the Municipality of Yigo, Application No. 2016-27. Case Planner: Marvin Aguilar

Chairman Arroyo Marvin ---

<u>Marvin Aquilar</u> summarizes staff report to include purpose, facts, staff analysis/discussion, recommendation/conditions. [For full content/context, please see Attachment G.]

[Attachment G - Staff Report dated June 2, 2016]

And most importantly Commissioners if you look at Page 1 ... the actual Page 1 is the colored page; is the signature requirement that's noted on P.L. 21-26 requiring several agencies to acknowledge, stamp and approve and certify the subdivision that is presented. [Continues with the staff report]

<u>Chairman Arroyo</u> thank you. Any questions? [None noted] We'll open the floor to the applicant. If you can state your name please for the record.

<u>Mark Zhao</u> I am the developer for this project. Previously in the same area I've already developed twenty single homes in the area and so right now they are either sold or leased to the military people. So, we've gone through this project will all the government agencies and finally we go to Public Works to endorse on that so I guess we need to get this approved.

Chairman Arroyo any questions? Mark, are you going build on these lots?

Mark Zhao yes.

<u>Chairman Arroyo</u> okay, you're not going to sell them as vacant lots you're going to market them as homes.

Mark Zhao no, because we have to do infrastructure first.

Commissioner Bathan so this is agricultural zone right?

Chairman Arroyo yes.

Commissioner Bathan so it going to be hooked up to sewer?

Mark Zhao yes; the sewer is already right there.

Commissioner Bathan I just want to make sure that they do because it's in the northern aquifer, that's our primary source of drinking water.

Chairman Arroyo any other questions?

<u>Michael Borja</u> Marvin, the acceptance and dedication of the right-of-way by the Governor that can be signed off before the road is built?

Marvin Aquilar no, actually it has to be in place when we accept it and then submit it to the Governor.

<u>Michael Borja</u> so this map won't be fully signed until the road is completed? We're dedicating the right-of-way, but it could only come under the condition that it is already built.

<u>Marvin Aguilar</u> yes, but for the purpose of reviewing the map as presented, the subdivision as presented; yes that will be end state, the very last state of

Michael Borja so it will be the last signature after this is all done.

<u>Marvin Aquilar</u> yes sir because we would have to go out there and inspect all the improvements and then submit a letter to the Governor basically stating all infrastructure is in place and worthy of dedication to the Government of Guam.

Mark Zhao but the question is can we record the map now?

Marvin Aguilar you can record the map. Dedication can come later.

Vice Chairman Cruz so when are they going to put the sewer.

<u>Mark Zhao</u> once it's approved we can Because we already got the drawings for the infrastructure; so, once the approval is done then we'll build infrastructure right away.

Commissioner Bathan how long will it take to complete.

Mark Zhao hard to say because right now it's so expensive. Maybe about six months to a year.

Michael Borja so they can't begin until we approve this map.

Marvin Aguilar not necessarily a rock and a hard place I think to say properly to declare it we're accepting the declaration of the easement but to dedicate would be another issue that will come later once it's completed and ready to be dedicated I mean to be dedicated to the Government of Guam.

Chairman Arroyo any other questions?

<u>Vice Chairman Cruz</u> we approve this, you guys sign that and then the map becomes official when it's recorded.

<u>Marvin Aguilar</u> when it's recorded. You can see that this was vetted by the Territory Surveyor so it is a, it is in conformance with the requirements of the Subdivision Law.

<u>Chairman Arroyo</u> if there are no questions ... do you have anything else you would like to say? [None noted] Okay, so I am ready to entertain a motion on this application.

<u>Commissioner Limtiaco</u> Mr. Chair, I move to approve Application No. 2016-27 the approval of an agricultural subdivision map DLM Map No. 044FY2015 on Lot No. 7024-4-6B-3NEW, in the municipality of Yigo with the following conditions:

- a. That the applicant complies to all conditions noted on the cover sheet one of three on the map. Again that is DLM Map No. 044FY2015 or as required by government permitting agencies;
- b. That irrespective of ownership, any future modifications to the parcels such as consolidation and re-subdivision or any other methods of subdividing said parcel must be subjected to the GLUC review prior to the map approval;
- c. That no ownership rights or title to any lots shall be transferred unless the required improvements such as water, power and sewer including Conditions B & C above, are in place and ready to service any development on the lot; and,
- d. That "pursuant to Section 5 of E.O. 96-26, the developer must apply for and receive a building permit or grading permit for approved GLUC project within one (1) year of the date of recordation of the Notice of Action otherwise the approval of the project as granted by the Commission shall expire."

<u>Chairman Arroyo</u> okay, so the motion to approve the agricultural subdivision map with conditions. Do have a second?

Commissioner Bathan second.

<u>Chairman Arroyo</u> moved by Commissioner Limtiaco, seconded by Commissioner Bathan. Any discussion? No discussion.

So on the motion, all in favor say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioners Limtiaco and Bathan], all opposed say "nay." Motion passes.

[Motion passed unanimously; 4 ayes, 0 nay]

Chairman Arroyo alright the last one.

Agricultural Subdivision Map

H. The Applicant, Mark Zhao, pursuant to P.L. 28-128, Section 1(a); requests approval of its Agricultural Subdivision Map DLM No. 040FY2015 on Lot 7024-4-6A, in the municipality of Yigo, Application No. 2016-28. Case Planner: Marvin Aguilar

<u>Marvin Aguilar</u> summarizes the staff report to include purpose, facts, analysis/discussion, recommendation and conditions. [For full content/context of the report, see Attachment H]

[Attachment H - Staff Report dated June 2, 2016]

<u>Chairman Arroyo</u> any questions? [None noted] I'll open the floor to the applicant. Could you please state your name again for the record.

Mark Zhao on this one actually I have a partner on this it's Fred Horecky. So we plan to ... we went through the same thing with Public Works to get their approval and finally to get Land Management approval to get to this point. And so, we're planning to build seventeen (17) homes to try to suit the military side because it's closer to Andersen; try to build some bigger homes.

Chairman Arroyo Mark was that it? [Mr. Zhao replies "yes, that's it."] Any questions?

<u>Commissioner Bathan</u> on the subdivision of the lots there are two lots identified as a garden and ponding basin. Who will be maintaining these lots?

<u>Mark Zhao</u> well actually of all the subdivisions that I have developed we have homeowners' association. The reason also is because the street lights that come through GPA is not going to pay for it ... I mean the Mayor's Office is not going to pay for it so we have to pay for it. So, we actually established homeowners' association to pay for the streetlights, the ponding basin and also the general cleaning of the property.

Chairman Arroyo what are you going to use the garden for; is that for growing vegetables or....

Mark Zhao no, it's actually ... the engineers when they gave enough space for the ponding basin and every lot is 929, we have this leftover so that's about it.

Chairman Arroyo there's no plans to put plants or

Mark Zhao well we can because this whole area ... it would be nice to a ... before we were trying to do a swimming pool or

<u>Chairman Arroyo</u> who will own the garden and the ponding basin; who's going to maintain the ponding basin.

<u>Mark Zhao</u> at this moment If we do it as an individual lot then the owners will have to own it.

Chairman Arroyo so it would be like common area.

<u>Mark Zhao</u> yeah, but if we establish a homeowners' association we'll just put this one as their responsibility to do so.

<u>Chairman Arroyo</u> whatever fees you collect will go towards to maintenance.

Mark Zhao yeah that's right.

Vice Chairman Cruz are you going to fence up the area?

Mark Zhao yes. The perimeter fence and then in between we're just going to fence the like a dividing fence, but the front we may not because in this situation we can actually do a it's a gated community because we can put a gate because this easement; actually we have not dedicated to the government yet so we could actually like I said, this area ... this property actually is very nice. It's fully fenced in and then you can put a nice entrance.

<u>Chairman Arroyo</u> is it your plan or you haven't decided whether or not if you're going to dedicate the easement to the government?

Mark Zhao on this one we're not ... haven't decided yet, no.

Chairman Arroyo any other questions?

Michael Borja how does Perez Acres feel?

Mark Zhao you know the only one ... because you know the other project that I did the Perez Villa. The only concern that they have was the boundary. So they put a chain-link fence there already. They were requesting that they wanted to put a concrete fence. But the question is how to do it you know. Whether it's in their property or in our property or you take half of theirs and half of ours and what's the cost. Everything is in place because we are building like more than 10-feet setback. So, they're not touched in the back.

<u>Chairman Arroyo</u> any other questions? [None noted] Okay, since there is no public comment for this application can I have a motion?

<u>Commissioner Limtiaco</u> Mr. Chair, I move to approve Application No. 2016-28 the approval of an Agricultural Subdivision Map DLM No. 040FY2015 for Lot No. 7024-4-6A in the municipality of Yigo with the following conditions:

- a. That the applicant complies to all conditions noted on the cover sheet one of two on the map; DLM Map No. 040FY2015 or as required by government permitting agencies;
- That irrespective of ownership, any future modifications to the parcels such as consolidation and re-subdivision or any other methods of subdividing said parcel must be subjected the GLUC review prior to the map approval;
- c. That no ownership rights or title to any lots shall be transferred unless the required improvements such as water, power and sewer including Conditions B & C above, are in place and ready to service any development on the lot; and,
- d. That "pursuant to Section 5 of E.O. 96-26, the developer must apply for and receive a building permit or grading permit for approved GLUC project within one (1) year of the date of recordation of the Notice of Action otherwise the approval of the project as granted by the Commission shall expire."

<u>Chairman Arroyo</u> okay so there's a motion to approve the subdivision map with conditions, do I have a second?

Commissioner Bathan I second.

<u>Chairman Arroyo</u> moved by Commissioner Limtiaco, seconded by Commissioner Bathan. Any discussion? [None noted]

So on the motion, all in favor say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioners Limtiaco and Bathan], all opposed say "nay." Motion passes.

[Motion passed unanimously; 4 ayes, 0 nay]

Good luck on both of your projects Mark.

Chairman Arroyo is there any other business that we need to discuss.

Commissioner Limtiaco I would like to say a couple of words. This is my last official meeting and I wanted to I was actually surprised that some of my favorite representatives are not here. But this is a momentous occasion, one of the two very stringent females on this Commission is leaving. So, I really appreciate working with you guys. You guys really are professionals (not that I have any doubts). We have been under a lot of scrutiny lately. When I first came on the Commission the Commission was under a lot of scrutiny; it was when Emerald Towers was ... there was lawsuits with Emerald Towers and so here we are five years later and the same thing is happening; it's just separate ... towers in the south now. But this Commission has done a lot of work despite the fact that our laws are very sub-standard. So, the discussions that we engage with either the applicant or the Chief Planner, our support staff, ourselves, each other and then the hours of reading through applications and then sitting in technical meetings and sitting in these public hearings are ... they have been well worth for me. So, I bid you adieu. I will not be very far away. You can still call me and text me; I might show up at the couple of the

meetings. Before I leave, no more sign applications. Whenever you see an application for a sign variance, it's moving and they want it way bigger than 5-feet, I want you to think of me.

In all seriousness though I really appreciate all of this but one of my key reasons for not wanting to be re-nominated is my deep, deep, deep frustration with the legislative process. The fact that we have had (in my term) I've gone through two legislative oversight senators; I've gone through Ben Pangelinan and now Tom Ada, and despite the fact that I might have been on record, (Cris) at least fifty times of saying that our master land use plan must be updated. We are totally going in the opposite direction of that. We are now looking at split master plans where some or part of the island; we're now looking dissolving the authority of the GLUC. What I see coming down the pipe is the current public law that will be heard public testimony today (I'm sorry bill not public law), bill will be heard having public testimony today. I am really seeing the dilution of the due process of private property rights. And it pains me and quite honestly, I worry about the challenges that this Commission is going to face. You've always been able to find your north compass; your compass always faces north here and I know that some of us really struggle with some decisions, and then at the very end even if we say no, the Commission still moves forward and it's always in the best interest of both landowner and Guam, So, good luck.

And I want to say a very special thank you to Mike, Marvin and Cris, Frank, Celine and Penmer. You guys are very ... if we do all this work I can only imagine how much work you guys do in order to get us to where we are. I really appreciate all of you guys and I will miss all of our interactions here. And so thanks everybody for allowing me to have my very last meeting and it was an easy agenda. So thanks!

<u>Chairman Arroyo</u> I also want to say on behalf of the Commission we really appreciate your contribution, and we will miss you and we wish you the very best of luck and hopefully we'll see you every once in awhile and appreciate any input. It's been very invaluable your input. You've seen scenes that I'm sure that a lot of us haven't seen in the applications, ask questions we never thought about. So, thank you.

Anybody else? [None noted] The next item on the agenda ---

Tricee, your last motion ---

VI. Adjournment

Commissioner Limtiaco Mr. Chair, I move to adjourn.

Commissioner Bathan I second.

<u>Chairman Arroyo</u> on the motion, all in favor of the motion to adjourn say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioner Limtiaco and Bathan.]

The regular meeting of the Guam Land Use Commission for Thursday, June 9, 2016 was adjourned at 5:00 p.m.

Approved by:

Transcribed by:

John Z. Ayroyo, Chairman Guam Land Use Commission

M. Cristina Gutierrez, Pro Terr DLM, Planning Division

Date approved:

GUAM LAND USE COMMISSION



Chairman John Z. Arroyo Commissioner Conchita D. Bathan Commissioner Tricee P. Limtiaco Vice Chairman Victor F. Cruz Commissioner Tae S. Oh Commissioner (Vacant-2)

Michael J.B. Borja, Executive Secretary Kristan Finney, Assistant Attorney General

AGENDA

Regular Meeting Thursday, June 09, 2016 @ 1:30 p.m.

Department of Land Management Conference Room 590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning

- I. Notation of Attendance
- [] Quorum

[] No Quorum

- II. Approval of Minutes
 - GLUC Regular Meeting of Thursday, April 28, 2016
- III. Old or Unfinished Business
- IV. New Business

Horizontal Property Regime

- A. The Applicant, LGI Pacific Guam LLC represented by Michael D. Flynn, Jr., Esq. and Timothy Armour; request to accept the amended and restated Declaration of Horizontal Property Regime and restated floor plans for Ladera Towers Condominium, Lot Nos. 4 and 5, Tract 1822, in the Municipality of Mangilao, in an "R-2" (Multi Family Dwelling) zone, under Application No. 1993-01D, HPR No. 104. Case Planner; Celine Cruz
- B. The Applicant, Lih Pao Investment LLC represented by Chun Chieh "Freddy" Wang; requests issuance of its Final Public Report for Talo Verde Estates Townhomes, Lot Nos. 57New-New-1, 57New-New-2, 57New-New-4 and 57New-New-6, Tract 13105, in the Municipality of Tamuning, in an "R-2" (Multi Family Dwelling) zone. HPR No. 169, under Application No. 2016-11B. Celine Cruz

Zone Change

C. The Applicant, Mr. Sang Hon Yi represented by W.B. Flores & Associates; request for a zone change from "A" (Rural) to "M1" (Light Industrial) zone for the proposed construction of an automotive repair and fabrication shop, on Lot 5221-1-6 in the Municipality of Barrigada, under Application No. 2014-33.
Case Planner: Penmer Gulac

Zone Variance/Tentative Development Plan

D. The Applicant, City Hill (Guam), Ltd.; represented by Duenas, Camacho & Associates; request for a zone variance for setback and height for the proposed construction of a 6-level parking garage on the northwestern portion of Lot 5058-R3NEW-1, in an "H" (Hotel) zone, in the Municipality of Tamuning, under Application No. 1996-60C.

Case Planner: Frank Taitano

E. The Applicant, City Hill (Guam), Ltd.; presented by Duenas, Camacho & Associates; request for a tentative development plan for the proposed construction of a 4-storey, 6-level parking garage and access road on the northwestern portion of Lot 5058-R3NEW-1, in an "H" (Hotel) zone, in the Municipality of Tamuning, under Application No. 1996-60B.

Case Planner: Frank Taitano

V. Administrative and Miscellaneous Matters

Zone Variance/Renewal

F. The Applicants, Brian and Jennifer Na; requests renewal of a previously approved Use Variance for a retail/convenience store and residential home on the second floor, Lot 9, Block 1, Tract 159, in an "R1" (Single Family Dwelling) zone, in the Municipality of Yigo, under 2013-08B.

Case Planner: Celine Cruz

Agricultural Subdivision Map

- G. The Applicant, Mark Zhao, pursuant to P.L. 28-128, Section 1(a); requests approval of its Agricultural Subdivision Map, DLM Map No. 044FY2015, Lot 7024-4-6B-3NEW, Municipality of Yigo, under Application No. 2016-27. Case Planner: Marvin Aquilar
- H. The Applicant, Mark Zhao, pursuant to P.L. 28-128, Section 1(a); requests approval of its Agricultural Subdivision Map, DLM Map No. 040FY2015, Lot 7024-4-6A, in the Municipality of Yigo, under Application No. 2016-28. Case Planner: Marvin Aguilar

VI. Adjournment

ATTACHMENT "A"

DIPÅTTAMENTON MINANEHAN TÅNO'
(Department of Land Management)
GUBETNAMENTON GUÄHAN
(Government of Guam)



EDDIE BAZA CALVO

RAY TENORIO Lieutenant Governor

Governor



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

June 2, 2016

Memorandum

TO:

Chairman, Guam Land Use Commission

FROM:

Guam Chief Planner

SUBJECT:

Staff Report - Application No. 1993-01D Request for acceptance of Amended and Restated Declaration of HPR (for Issuance of Supplementary

Final Public Report)

RE:

Ladera Towers Condominium - Registration Number 104

1. PURPOSE:

- A. Application Summary: The Association of Apartment Owners of Ladera Towers Condominium, represented by Michael Flynn, Jr. Esq. and Timothy Armour, R.A., request acceptance of the Amended and Restated Declaration of Horizontal Property Regime for "Ladera Towers Condominium", on Lots 4 and 5, Tract 1822, in the Municipality of Mangilao, in an "R-2" (Multi-Family Dwelling) zone, HPR Registration No. 104, under application No. 1993-01D, pursuant to §45101 to §45155, Chapter 45, Horizontal Property Regime Act.
- B. Legal Authority: Title 21, GCA (Real Property), Chapter 45 (Horizontal Property Act).

2. FACTS:

To date, this project has had several actions approved by the Guam Land Use Commission of which the order of events occurred sometimes out of sequence. In terms of required documents submitted for the Commission's review and disposition, and provided as historical information to the project, the following documents are:

- a. The Preliminary Public Report recorded under Instrument No. 485004 (February 24, 1993);
- b. First Supplementary Preliminary Public Report recorded under Instrument No. 496500 (October 18, 1993);
- c. Second Supplementary Preliminary Public Report recorded under Instrument No. 505801 (March 29, 1994);
- d. Notice of Action for Issuance of Final Public Report recorded under Instrument No. 767221 (January 1, 2008);

Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

> Mailing Address: P.O. Box 2950 Hagatña, GU 96932

Website: http://dlm.guam.gov

E-mail Address: dlmdir@land.guam.gov

Telephone: 671-649-LAND (5263)





Continuation of Staff Report
Staff Report - Application No. 1993-01D HPR
Ladera Towers Condominium,
Registration No. 104
GLUC Meeting of June 11, 2016
Page 2 of 3

- e. Final Public Report recorded under Instrument No. 773111(May 12, 2008);
- f. Floor Plans of Ladera Towers Condominium recorded under Instrument No. 802505 (February 24, 2010);
- g. Declaration of Horizontal Property Regime recorded under Instrument No. 802506 (February 24, 2010); and,
- h. Notice of Action for Issuance of First Supplementary Final Public Report recorded under Instrument No. 803172 (March 11, 2010).

3. DISCUSSION:

As to the current status and changes to the project, on March 2, 2012, LTA, LLC conveyed unto LGI Pacific Guam Inc. the Ladera Towers Condominium. Through the transfer of ownership, LGI Pacific sustained the business operation of condominium rentals of the Ladera Towers Condominium. LGI Pacific indicated that ownership of the project is still 100% vested in their name and that as the owner, they would like to commence sales of the units.

The applicant had submitted for the Commissions' review and disposition an "Amended and Restated Declaration of Horizontal Property Regime". This request was in preparation of LGI Pacific's intent to sell individual apartment units. LGI Pacific determined that certain provisions and exhibits of the Original Declaration and certain elements of the Original Floor Plans did not correctly represent the physical status of the project. Through its agents and architects, a physical assessment was conducted and as a result, adjustments to floor area needed to be made in order to provide full and correct disclosure to prospective purchasers.

Notably, LGI Pacific, as owner and Declarant, submitted its Amended and Restated Declaration of Horizontal Property Regime to amend and correct:

- Exhibit B (Identifies Apartment Number, Type, Floor Location, and Percentage of Common Interest);
- b. Exhibit C (Description of Unit Types);
- c. Exhibit E (Appliances and Amenities) and Paragraph E-1 (Private or Residential Use: Declarant's Apartments);
- d. To make reference to and add to Exhibit F (Floor Plans of Floors 1, 2 and 3) to the Declaration;
- e. To reflect the rights and obligations of LGI Pacific, following the transfer of ownership from the Developer; and,
- f. To restate the representations made by the developer in the Declaration.

The submitted documents are the basic elements of reviving the project however; additional information is needed to validate the project physically and through documentation in order to present a clear and concise offering.

Continuation of Staff Report
Staff Report - Application No. 1993-01D HPR
Ladera Towers Condominium,
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We recommend that the Declarant provide the following information to achieve the intent of full disclosure of this project:

a. Copy of the updated Master Deed or Master Lease and Recording Data;

b. A current or updated copy of Policy of Title Insurance, Abstract of Title, Certificate of Title or Lien Letter;

c. Specimen copy of Escrow Agreement;

d. Copies of Reservation Agreement, Contract of Sale or Agreement of Sale and the Apartment Deed or Apartment Lease to be used to convey Property to purchaser. (Forms should be identified with the word SPECIMEN);

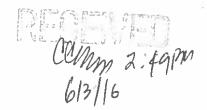
e. Copy of Property Management Contract (if Any); and Copy of House Rules.

Marvin Q. Aguilar Guam Chief Planner

Case Planner: Celine Cruz

THE ASSOCIATION OF APARTMENT OWNERS OF LADERA TOWERS CONDOMINIUM

SUITE 2110 310 LADERA LANE MANGILAO, GUAM 96913



June 2, 2016

VIA HAND-DELIVERY

Honorable Commission Members **GUAM LAND USE COMMISSION** 590 S. Marine Corps Drive ITC Building, Ste 733 Tamuning, Guam 96913

RE:

Request to Accept the Amended and Restated Declaration of Horizontal Property Regime and Amended and Restated Floor Plans, Ladera Towers Condominium

Dear Commission Members:

This letter supplements and restates the information presented to the Commission in our letter to the Commission, submitted by the Association of Apartment Owners of Ladera Towers Condominium, on May 13, 2016.

The Association of Apartment Owners of Ladera Towers Condominium (the "Association"), respectfully requests the Guam Land Use Commission to accept the Amended and Restated Declaration of Horizontal Property Regime and Amended Floor Plans, of Ladera Towers Condominium, as proffered by LGI PACIFIC GUAM, INC., a Guam corporation ("LGI Pacific") and the Association, on the bases stated below.

The Horizontal Property Regime at Ladera Towers Condominium (the "Project") came into being on February 24, 2010, when the developer of the Project, LTA LLC, a Guam limited liability company (the "Developer"), who owned fee simple title to the land upon which the Project sits (the "Land") and owned the improvements on the Project (the "Improvements"), submitted the Land and the Improvements and all of its interest to a Horizontal Property Regime, as stated in the Developer's Declaration of Horizontal Property Regime (the "Original Declaration) and as depicted in the Floor Plans of Ladera Towers Condominium

¹ "Developer means a person who undertakes to develop a real estate condominium project." 21 GCA § 45102(m).

Honorable Commission Members GUAM LAND USE COMMISSION Page 2 of 4

(the "Original Floor Plans"), filed with the Office of the Recorder, Department of Land Management, Government of Guam (the "Recorder").²

On July 30, 1990, the Commission's predecessor, i.e., the Territorial Planning Commission, issued its Notice of Action, approving the request by the Developer's predecessor, i.e., T & K Development Corporation, for a height variance of 171 feet or 21 stories for the Project, subject to the Developer's predecessor meeting certain conditions, specified in the July 30, 1990 Notice of Action. The Developer's predecessor and the Developer did meet all of the conditions stated in the July 30, 1990 Notice of Action. The current owner of the Project (and each of the apartment condominiums units at the Project), LGI Pacific, possesses a current Guam business license for the rental of 218 unit condominiums at the Project, signifying that the Project has met the building and business operation requirements of each and every Government of Guam agency.

This Honorable Commission issued its Final Public Report, concerning the Project, on December 27, 2007.⁴ The Developer later submitted a draft Supplemental Final Report (with recalculated floor area sizes) to this Commission, which draft Supplemental Final Report was approved by the Commission on February 26, 2010.⁵ However, the Developer did not submit the final form of the Supplemental Final Report for signature by the Commission and, because the final form of the Supplemental Final Report was not signed by the Commission, the Report was not recorded with the Office of the Recorder.

On November 19, 2012, by way of an Amended Warranty Deed⁶, the Developer transferred all of its ownership interest in the Project (i.e., all of the Condominium Apartments in the Project) to LGI Pacific, which entity, is presently the sole owner of all of the Condominium Apartments at the Project (the "Owner"). Currently, approximately eighty to ninety percent of the Condominium Apartments at the Project are under lease with various third-parties.

² The Original Floor Plans and the Original Declaration were filed by the Developer in the Office of the Recorder, on February 24, 2010, under, respectively, Instrument Number 802505 and Instrument Number 802506

³ A separate Notice of Action was issued by the Territorial Land Use Commission ("TLUC"), on June 13, 1997, in which the TLUC approved a modification of a previously issued TLUC condition, concerning a Guam Waterworks Authority requirement. The June 13, 1997 TLUC Notice of Action was recorded in the Office of the Recorder, on July 14, 1997, under Instrument Number 567071.

⁴ The Final Public Report was issued on December 27, 2007 and recorded with the Office of the Recorder, on May 8, 2008, under Instrument Number 773111.

⁵ The Notice of Action concerning the Commission's approval of the Developer's submitted Supplemental Final Report was recorded with the Office of the Recorder, on March 11, 2010, under Instrument Number 803172.

⁶ The Amended Warranty Deed transferring sole ownership in the condominium apartments to LGI Pacific, was recorded in the Office of the Recorder, on November 19, 2012, under Instrument Number 844362.

[&]quot;Majority or majority of apartment owners means the owners of apartments to which are appurtenant more than fifty per cent (50%) of the common interest, and any specified percentage of the apartment owners means the owners of the apartments to which are appurtenant such percentage of the common interests." 21 GCA § 45102(o). LGI Pacific constitutes more than a majority of apartment owners as it is the owner of 100% of the condominium apartments at the Project, to which are appurtenant 100% of the common interests in the Project.

Honorable Commission Members GUAM LAND USE COMMISSION Page 3 of 4

In LGI Pacific's preparation to sell individual condominium apartment units at the Project to prospective purchasers, LGI Pacific and its agents and architects conducted physical inspections of the Project (including condominium apartments) and determined that certain provisions and exhibits of the Original Declaration and certain elements of the Original Floor Plans did not correctly represent, in all respects, the physical status of the Project. LGI Pacific determined that in order to provide full disclosure to prospective purchasers concerning the Project, the Original Declaration and the Original Floor Plans require amendment.

LGI Pacific, as Owner and Declarant, submits its Amended and Restated Declaration of Horizontal Property Regime (the "Amended and Restated Declaration"): to amend and correct Exhibit B, Exhibit C, Exhibit E, and Paragraph E-1 of the Declaration; to make reference to, and to add, Exhibit F to the Declaration; to reflect the rights and obligations of LGI Pacific, following the transfer of ownership from the Developer; and, in all other respects, to restate the representations made by the Developer in the Declaration. The Association has approved the Amended and Restated Declaration.

LGI Pacific, as Owner, also submits its Amended and Restated Floor Plans of Ladera Towers Condominium, as certified by LGI Pacific's registered architect, to amend the Original Floor Plans, as follows: elimination of parking slot designations in the First Floor and Second Floor Parking Plan; addition of a pool side plan; addition of a first floor (building) plan; corrections to the second floor and third floor (building) plans and, in all other respects, to restate the plans certified in the Original Floor Plans. The Association has approved the Amended and Restated Floor Plans of Ladera Towers Condominium.

Enclosed in support of their request, are the following:

- 1. The Association of Apartment Owners of Ladera Towers Condominium (the "Ladera Towers Owner's Association") May 13, 2016 letter of authorization for representation before the Guam Land Use Commission;
- 2. Waivers and Minutes of the Board of Directors of the Association of Apartment Owners of Ladera Towers Condominium:
- 3. Waivers and Minutes of the Association of Apartment Owners of Ladera Towers Condominium;
- 4. Amended and Restated Declaration of Horizontal Property Regime of Ladera Towers Condominium and Exhibits A-F;
- 5. Bylaws of Association of Apartment Owners of Ladera Towers Condominium; and,
- 6. Certificate of Architect and Amended and Restated Floor Plans of Ladera Towers Condominium.

⁸ LGI Pacific had no actual notice of the Developer's submission of the draft Supplemental Final Report because the Developer never submitted a final Supplemental Final Report to the Commission for signature and subsequent recording with the Office of the Recorder, Department of Land Management, Government of Guam, and the Developer never made the matter of its submission known to LGI Pacific.

Honorable Commission Members GUAM LAND USE COMMISSION Page 4 of 4

Thank you for your kind attention to this matter.

Sincerely,

THE ASSOCIATION OF APARTMENT OWNERS OF LADERA TOWERS CONDOMINIUM

Scott A. Clark, President, hereto duly authorized

ATTACHMENT "B"



DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

6913 Lieutenant Governor

Governor

RAY TENORIO

May 25, 2016

Memorandum

TO:

Chairman, Guam Land Use Commission

FROM:

Guam Chief Planner

SUBJECT: Staff Report - Application No. 2016-11B Final Public Report

RE:

Talo Verde Estates Townhomes - Registration No. 169

1. PURPOSE:

A. Application Summary: The applicant, Lih Pao Investment LLC, represented by Chun Chieh (Freddy) Wang, and Janalynn Cruz Damian of Calvo Fisher & Jacob LLP, is requesting issuance of a Final Public Report for a project known as "Talo Verde Estates Townhomes" or the "Project." Said project consists of twelve (12) buildings and a total of eighty-two (82) 2-storey townhomes with basement/garage, and other common elements in an "R-2" Multi Family Dwelling Zone, Municipality of Tamuning.

B. Legal Authority: Title 21, GCA (Real Property), Chapter 45 (Horizontal Property Act)

2. FACTS:

A. Location: "Talo Verde Estates Townhomes" is located along the western portion of Ypao Road within the Talo Verde Estates Subdivision (Tract 13105) in the municipality of Tamuning.

B. Lot Area:

- a. Lot 57NEW-NEW-1, Tract 13105: 2,781± Sq.M
- b. Lot 57NEW-NEW-2, Tract 13105: 10,806± Sq.M
- c. Lot 57NEW-NEW-4, Tract 13105: 6,036± Sq.M
- d. Lot 57NEW-NEW-6, Tract 13105: 6,236± Sq.M
- C. Present Zoning: "R-2" (Multi Family Dwelling) Zone
- D. Sewer Status: With sewer.

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Website: http://dim.guam.gov

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Telephone: 671-649-LAND (5263)

Facsimile: 671-649-5383



Staff Report - Application No. 2016-11B HPR Talo Verde Estates Townhomes Registration No. 169 GLUC Meeting of June 9, 2016 Page 2 of 4

3. APPLICATION CHRONOLOGICAL FACTS:

- A. Previous Commission Actions: The Guam Land Use Commission, at its regular meeting of February 11, 2016, approved the issuance of the Preliminary Public Report for the Talo Verde Estates Townhomes under (Reference Notice of Action No. 888989).
- B. Date Application Accepted: May 24, 2016
- C. Date Heard by ARC: Not applicable.
- D. Public Hearing Results: Not applicable.

4. DISCUSSION:

- A. <u>Buildings:</u> The Project consists of twelve (12) two-story buildings with basement/garage within the "Project" limits and consists of eighty-two (82) Townhomes as follows:
 - a. Buildings 1, 4, 7, 8, 9, and 10 have eight (8) Townhomes;
 - b. Buildings 2, 3, 5, 6, and 11 have six (6) Townhomes; and
 - c. Building 12 has four (4) Townhomes.

<u>OFFERINGS</u>

- A. Townhomes Description: There are two types of townhomes, Type 1 and Type 2.
 - a. <u>Type 1:</u> Type 1 townhomes are located in buildings 1, 2, 3, and 4, each having an area of approximately 2364 square feet and consist of 3 bedrooms, a foyer, living room, dining room, kitchen, garage, 2.5 bathrooms, a front porch, and two balconies, one on the first floor and one on the second floor.
 - **b.** Type 2: Type 2 townhomes are located in buildings 5, 6, 7, 8, 9, 10, 11, and 12, each having an area of approximately 2541 square feet and consist of 3 bedrooms, a foyer, living room, den/4th bedroom, dining room, kitchen, garage, 2.5 bathrooms, a front porch, and two balconies, one on the first floor and one on the second floor.

Limited Townhome Common Elements include the front porch and balconies appurtenant to each townhome.

Staff Report - Application No. 2016-11B HPR Talo Verde Estates Townhomes Registration No. 169 GLUC Meeting of June 9, 2016 Page 3 of 4

- B. <u>Common Elements:</u> The townhome common elements shall include all portions of the project other than the townhomes, and shall include, but not be limited to:
 - a. The land in fee simple.
 - b. All unfinished undecorated portions of all perimeter and load bearing walls, all structural components, foundations, floor slabs, columns, girders, beams, supports and roofs. All windows located within or opening from a townhome. Doors and sliding doors leading to the lanai and balconies.
 - c. All yards, grounds, fences, planters, and landscaping and all refuse facilities, whether within or appurtenant to the Project.
 - **d.** All roads, driveways, ramps, loading areas, sidewalks, and walkways which are rationally of common use by owners of more than one townhome.
 - e. All guest parking.
 - f. All ducts, sewer lines, electrical equipment, wiring, pipes and other central and appurtenant transmission facilities over, under and across the Project which serve more than one townhome for services such as power, light, water, sewer refuse, telephone and radio and television signal distribution, if any. All ducts, pipes, equipment, and other transmission facilities, over, under and across the project for the provision of LP gas are not common Elements and belong to the LP Gas provider. Each Townhome owner shall be billed separately by the LP Gas provider for the provision of LP Gas to a Townhome.
 - g. Any interest which the Townhome Association may acquire in and to any Townhome or Townhomes for use by a resident manager or resident managers.
 - h. Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.
 - i. Generator providing emergency power and serving the townhomes, mechanical equipment in the generator building, and the generator building.
 - j. Electric transformers providing power and serving the Townhomes.
 - **k.** Lift pump.
 - I. Trach bins.
 - m. Planters located at the front of each Townhome as shown in the Townhome plans.
 - n. Limited Townhome Common Elements.
 - o. All other common elements as defined in the master Declaration and which are governed and subject to the Master Declaration.

Staff Report - Application No. 2016-11B HPR
Talo Verde Estates Townhomes
Registration No. 169
GLUC Meeting of June 9, 2016
Page 4 of 4

- C. Current Status and Changes to the Project: The project remains unencumbered by any mortgages or liens. Since the issuance of the Preliminary Public Report, the applicant has since received the Certificate of Occupancy for all structures within the Project. It is our position, based on the submitted documents that we find the material facts has been presented and considered adequate for any prospective purchaser to consider; and that adequate protection for purchaser's funds has been provided.
- STAFF RECOMMENDATION: We recommend issuance of a Final Public Report and said Final Public Report shall expire thirteen months from the date of recordation of the Notice of Action.

Marvin Q Aguitar Guam Chief Planner

Case Planner: Celine Cruz

ZONE CHANGE; ITEM C APPLICATION NO. 2014-33 SAN HON YI WITHDRAWN DUE TO TECHNICAL ISSUES WITH REQUIRED NOTICE TO REZONE BILLBOARD NOTICE

ATTACHMENT "h"



DIPĂTTAMENTON MINANEHAN TĀNO' (Department of Land Management) GUBETNAMENTON GUĀHAN (Government of Guam)



MICHAEL J. B. BORJA Director

DAVID V. CAMACHO **Deputy Director**

EDDIE BAZA CALVO Street Address: Governor 590 S. Marine Corps Drive Suite 733 ITC Building

RAY TENORIO Lieutenant Governor

May 12, 2016

Memorandum

To:

Chairman, Guam Land Use Commission

From:

Guam Chief Planner

Subject:

Staff Report - Application No. 1996-60C, Zone Variance for Lot No.

5058-R3NEW-1, Tumon, Municipality of Tamuning

1. PURPOSE:

- a. Application Summary: The applicant, City Hill Company (Guam) Ltd., represented by Setiadi Architects LLC and Duenas, Camacho & Associates, Inc. is requesting for a Zone Variance approval to construct a 4-storey, 6-Level parking garage Lot No. 5058-R3NEW-1, Tumon, Municipality of Tamuning.
- b. Legal Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law) Sections 61616 to 61624 (Variances) and Section 61311 ("H" (Hote/Resort) Zone) and Section IV (Procedures for Development within an "H" Zone) of the Interim "H" (Hotel-Resort) Zone Rules and Regulations.

2. FACTS:

- a. Location: The subject site is located on the site of the existing Guam Plaza Hotel, the JP Superstore and Tarza Water Park on the northern corner of the junction of San Vitores Road and Rivera Lane
- b. Lot Area: 36,449 Square Meters or 392,333.69 Square Feet.
- c. Present Zoning: "H" (Hotel-Resort) Zone.
- d. Field Description: The 9 acre site accommodates a fully developed hotel/resort complex consisting of the two, seven story Guam Plaza Hotel towers, the JP Superstore, the Tarza Water Park, a two story, three level parking structure, landscaping and various accessory amenities for onsite recreational, commercial and guest accommodations.

Mailing Address: P.O. Box 2950 Hagátňa, GU 96932

Tamuning, GU 96913



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Telephone: 671-649-LAND (5263)

> Facsimile: 671-649-5383



Staff Report - Application 1996-60C Zone Variance Lot 5058-R3NEW-1, Tumon, Municipality of Tamuning GLUC Hearing Date: June 9, 2016 Page 2 of 6

e. Masterplan: "H" (Hotel-Resort)

f. Community Design Plan: "H" (Hotel-Resort)

q. Previous Commission Action:

October 18 1983 - The Territorial Land Use Commission (now known as the Guam Land Use Commission) approved with conditions a Conditional Use for a 15-story hotel building and Zone Variance for density and parking.

March 10, 1988 - The Territorial Land Use Commission (now known as the Guam Land Use Commission - GLUC) approved with conditions a Conditional Use to amend previously approved Master Plan to change the approved 15 story hotel tower for two-7 story hotel towers and to construct additional building to include a shooting range, a single family dwelling unit.

January 2, 1996 – The GLUC approved with conditions a Tentative Development Plan for the addition of an Aquatic Park facility with infrastructure, restaurant/snack bar.

March 27, 1997 – The GLUC approved with conditions a Tentative Development Plan for a 29,950 square feet addition to the existing Guam Plaza Hotel Facility with 8,000 square feet designated for a "TGI Fridays" chain restaurant, 650 square feet identified for an ice cream parlor and the remaining 21,300 square feet for shopping space in a "H" Hotel-Resort Zone.

3. APPLICATION CHRONOLOGICAL FACTS:

a. Date Application Accepted: October 20, 2015

b. Date Heard By ARC: November 19, 2015

c. Public Hearing Results: April 21, 2016

(See Attachment A - Letters of Support)

(See Attachment B - minutes of the hearing)

Staff Report - Application 1996-60C Zone Variance Lot 5058-R3NEW-1, Tumon, Municipality of Tamuning GLUC Hearing Date: June 9, 2016 Page 3 of 6

4. DISCUSSION and STAFF ANALYSIS:

This request is for a height and side yard setback variance approval to accommodate a four storey/ six-level Parking Garage. The proposed height is to be at one (1) storey above the permitted three story limit for an additional 16.33 feet above the permitted height of 30 feet. The proposed setback is requested at zero setback from the require 10 feet setback on the western property line (parallel to lower Pale San Vitores Road) and a portion of the northwestern comer of the northern property line (parallel to upper Pale San Vitores Road).

The applicant submits the height variance is requested because the adjacent cliff line presents a physical constraint limiting horizontal expansion for parking stalls and circulation in the proposed parking facility. The applicant further attests the uppermost elevation of the parking garage will be at the same elevation as that of the Tarza Water Park and that the garage structure will not obstruct the views corridors of surrounding buildings such as the Ohana Bayview Hotel on the opposite side of upper Pale San Vitores Road or the Ocean view Hotel and Casa De Isa Condominiums, located at higher elevations. Further, the setback variance request would allow the project to avoid substantial encroachment and excessive cutting into the northern and eastern cliff line, which the project is aiming to minimize with the current design approach.

Pursuant to Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, variances may be granted by the Commission, provided the applicant can justify and/or demonstrate certain caveats apply this request. Such caveats include:

- a. There exists practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law;
- **b.** That there are exceptional circumstances or conditions applicable to the property or to the intended use that do not apply generally to other properties in the same zone;
- c. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood;
- d. That the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan; and
- e. That the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach area upon which the building is to be constructed, and that such building will not interfere with or adversely affect the surrounding property owner's or the public right to untrammeled use of the beach and it's natural beauty.

Staff Report - Application 1996-60C Zone Variance
Lot 5058-R3NEW-1, Tumon,
Municipality of Tamuning
GLUC Hearing Date: June 9, 2016
Page 4 of 6

In response to these caveats the applicant provided the following:

- a. As to the strict application of the provisions of Section 61617, 21 GCA would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law, the applicant provides that The strict application of the provisions of Section 61617 would result in practical difficulties, specifically the need for extensive grading into the abutting cliff line in order to accommodate the parking facility for the hotel and retail employees;
- b. As to the existence of exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that do not apply generally to other property in the same zone, the applicant provides that the parcel contains a steep cliff line that abuts two sides of the existing parking lot and proposed parking garage site. This is an exceptional circumstance that is not generally present in the adjacen properties;
- c. As to granting this variance not being materially detrimental to the public welfare or injurious to the property improvements in the neighborhood in which the property is located, the applicant provides the proposed height variance would reduce the project footprint and limit encroachment onto the abutting cliff lines, while not interfering with views from the existing hotel and residential uses across from the parcel on the opposite side of Pale San Vitores Road. Therefore, the granting of the height variance would not be detrimental to the public welfare or injurious to the property or neighborhood improvements. Further, he proposed setback variance would allow the project to avoid substantial encroachment and cutting into the northern and eastern cliff line for the parking garage. The nearest occupied structures in the adjacent lots are 20 feet or more from the property. There would be public benefits from the project since it would provided more supplemental parking for patrons of the restaurants in the adjoining establishments, who currently allowed to park on the hotel's employees parking lot. Therefore, the granting of the setback variance would not be materially detrimental to public welfareor injurious to the neighborhood improvements;
- d. As to granting of such variance contradictory to the objectives of any part of the Guam Master Plan, the applicant provides the proposed parking garage with office and warehouse space is an accessory use to the existing hotel and retail establishments within the same parcel. This commercial use is a compatible land use within the "H: Hotel-Resort Zone, and compatible with the objectives of the Guahan Master Plan; and

Staff Report - Application 1996-60C Zone Variance Lot 5058-R3NEW-1, Tumon, Municipality of Tamuning GLUC Hearing Date: June 9, 2016 Page 5 of 6

e. As to demonstrating the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach are upon which the building is to be constructed and that such building shall not interfere with adversely affect the surrounding property owners or the public right to an untrammeled use of the beach and its natural beauty, the applicant provides the proposed parking garage is located inland of Pale San Vitores Road and, therefore, is not fronting the Tumon beach area. The variances for height and setback would not interfere with or adversely affect the surrounding property owners' or public's right to untrammeled use of the beach or its natural beauty. Further, City hill (Guam), Ltd. Proposes to use living green walls or vertical gardens on the building façade. This type of landscaping will substantially enhance the aesthetics of the parking structure exterior to blend in with the hotel grounds and water park facilities.

In assessment of information made available for review, we have determined the following:

- a. Responses as provided by the applicant per criteria cited in Section 61617 (Variance Requirements) are found to be adequately justified;
- **b.** That based on information provided, the proposed development is in line with the Interim "H" Hotel-Resort Zone Rules and Regulations, whereby the development is compatible with the surrounding existing uses;
- c. Information as provided by the Application Review Committee member agencies and as expressed during the public hearing, no reason at this time exist to warrant any objectionable concerns to the project proposal; and
- **d.** That this request appears in proper form and context to be considered favorably by the Guam Land Use Commission.
- 5. RECOMMENDATION: Recommend Approval with conditions as follows:
 - a. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement; and
 - b. That any future additional development or changes to the approved site plan shall require the Applicant to submit an amended TDP application for review and approval by the Guam Land Use Commission; and
 - c. That applicant, submit a new Site/Master Plan in accordance to the as-built conditions for the Chief Planner's review and approval; and
 - d. That Applicant shall provide a Landscaping Plan w/ an Engineer's or Architect's certification, pursuant to Section 5 G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Chief Planner.

Staff Report - Application 1996-60C Zone Variance Lot 5058-R3NEW-1, Tumon, Municipality of Tamuning GLUC Hearing Date: June 9, 2016 Page 6 of 6

Marvin Q. Aguifar

CASE PLANNER: F.P.TAITANO

Attachments: ARC Memo to GLUC Members

Public Hearing Minutes (Attachment "A") Letters of Support (Attachment "B")

Notice of Actions

THOW HAS BEEN FILED WITH THE BUAM LAND USE COMMISSION (BLDC) FOR A 1

Terrativa Boxslupmant Plan & Zone Variance Applications for Guam Plaza Hotal & 1F Bup

Gly Hill to (Sugget) Ltd.

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January 18, 2016

Guam Land Use Commission

Department of Land Management

590 S. Marine Corps Drive

3rd Floor ITC Bldg.

Tamuning, Guam 96913



Subject: Guam Plaza Hotel & JP Superstore Back of House, Lot 5058-R3NEW-1, Tumon, Guam.

Dear Commissioners:

This letter is written in support of the Guam Plaza Hotel and JP Superstore Back of House (BOH) project proposed in Lot 5058-R3NEW-1, Tumon, Guam by City Hill Company (Guam) Ltd. The project will construct a new parking structure with office and warehouse space, and a new access road to upper Pale San Vitores Road.

We are the owner of Lot 5076-R4-1 and Lot 5076-R4-6NEW-3, located along Pale San Vitores Road and northeast of the Guam Plaza Hotel facilities. City Hill has worked hard along with other members of the business community to improve this sector of Tumon. We anticipate their proposed project will support responsible development of our tourism industry.

We strongly support the Guam Plaza Hotel and JP Superstore BOH project and encourage the Commission to approve its land use applications.

Sincerely,

VINCENT C LIN
Owner

01/05/2016

Guam Land Use Commission
Department of Land Management
590 S. Marine Corps Drive
3rd Floor ITC Bldg.
Tamuning, Guam 96913



Subject: Guam Plaza Hotel & JP Superstore Back of House, Lot 5058-R3NEW-1, Tumon, Guam.

Dear Commissioners:

Shao Enterprises, Inc. is submitting this letter in support of the Guam Plaza Hotel and JP Superstore Back of House (BOH) project proposed in Lot 5058-R3NEW-1, Tumon, Guam by City Hill Company (Guam) Ltd. City Hill proposes to construct a new parking structure with office and warehouse space, and a new access road to Pale San Vitores Road.

We are the owners of the Fuji Ichiban restaurants on Guam, and are leasing a portion of Lot 5058-2-R1, located adjacent to the Guam Plaza project site. We welcome the project and the additional parking spaces that will be provided for our restaurant patrons.

Shao Enterprises, Inc. strongly supports the Guam Plaza Hotel and JP Superstore BOH project and encourages the Commission to approve its land use applications.

Sincerely,

NAME HERE CHIACO SHAU

TITLE HERE MALAGEN.

Shao Enterprises, Inc.

Pacific Place

January 6, 2016

Guam Land Use Commission
Department of Land Management
590 S. Marine Corps Drive
3rd Floor ITC Bldg.
Tamuning, Guam 96913

Stant Infant Planning Div., DZM

Subject: Guam Plaza Hotel & JP Superstore Back of House Project Lot 5058-R3NEW-1, Tumon, Guam.

Dear Commissioners:

This letter is written in support of the Guam Plaza Hotel and JP Superstore Back of House (BOH) project proposed in Lot 5058-R3NEW-1, Tumon, Guam by City Hill Company (Guam) Ltd. The project will construct a new parking structure with office and warehouse space, and a new access road to upper Pale San Vitores Road.

Our commercial building, Pacific Place, is located along Pale San Vitores Road across from the Guam Plaza Hotel property. City Hill has worked hard for many years, along with other members of the business community, to improve this sector of Tumon. We commend them for the objective of this proposed project, which increases their parking capacity and improved access for their facilities. So many developments attempt to justify less parking than required, so we are please to see our neighbor undertaking this responsible development.

Pacific Place fully supports the Guam Plaza Hotel and JP Superstore BOH project and encourages the Commission to approve its land use applications.

Sincerely,

Gregg C. Kosanke

President

Sincerely

Gregory Hartkopf, P General Manager

Minutes of Public Hearing

Application No. 1996-60C - Zone Variance for Height and Setback Lot 5058-R3NEW-1, Tumon, Municipality of Tamuning

On April 21, 2016-6:05 P.M., a public hearing was conducted at the Tamuning Senior Citizen Center, present were the applicant's representatives, Ms. Yoko Pipes with City Hill (Guam), Ltd.,-Mr. John Duenas & staff with Duenas, Camacho & Associates, Inc.,-Mr. John Satiadi Tan & Staff with Setiadi Architects, LLC, -the Mayor, Ms. Louise C. Rivera, Vice Mayor Mr. Ken Santos, Ms. Catherine McCollum (Tamuning MPC Member) and 4 public attendees.

Case Planner called the meeting to order, introduced himself, the application and the applicant's representatives and handed the floor to the representatives to present the application.

Ms. Claudine Camacho presented the project, site location, and variance requests. Mr. John Duenas presented information in the infrastructure, noting the project would not overburden the island's utilities and that stormwater would be handled on site and Mr. John Setiadi presented information on the green wall system and sustainability incorporated into the design to enhance the aesthetics of the structure, noting that planting vegetation is also a way to improve air quality. The floor was then opened for questions and concerns from the attendees.

Public Comments:

Ms.Catherine McCollum (MPC Member): "I remember back when there was an 8.2 earthquake in that area and hotels had lots of damages. Will this be addressed in this project?" Mr. John Setiadi replied that the project will be designed in accordance with building code structural requirements, including criteria for seismic activity and typhoons.

Mr. Arthur Loerzel: "Will the structure be on top of the existing parking lot?" Ms. Claudine Camacho explained that the new parking garage will be behind the Guam Plaza Hotel and that it will retain a small footprint by not encroaching on to the two adjacent cliffs. It will not be located over the existing parking garage. Mr. Loerzel wanted to know exactly where the new structure is going to be and Ms. Camacho showed it on the project site plan.

Mr. Ken Santos (Vice Mayor): "the existing parking lot has 72 stalls for employees of the Guam Plaza Hotel. Who are the 286 parking stalls for?"

Mr. Arthur Loerzel: "Can patrons from Tarza Water Park park there?" Ms. Camacho replied that the project is a staff parking facility that will help consolidate parking for the Guam Plaza employees. Mr. John Duenas added that it would be used by patrons of the neighboring businesses, such as the Rotary Sushi and Fuji Ichiban restaurants.

Minutes of Public Hearing Application 1996-60C Page 2

Mr. Ken Santos (Vice Mayor): "Does the private access road exist already? Will it be equipped with storm drains? One of the main concerns for people living in Tamuning is flooding. A lot of other hotels don't have storm drains." Ms. Camacho replied that road has not yet been built. Mr. John Duenas elaborated that stormwater generated on site will be handled on site.

Mr. Arthur Loerzel: "I cannot find parking at JP Superstore. Will that parking structure help?" Ms. Camacho replied that the project is a staff parking facility that will help free up more parking for patrons of Guam Plaza and its facilities.

Mr. John Brown: "I live opposite of the project site at Casa de Isa Condo and it is difficult to get to upper Tumon from upper San Vitores. I want to make sure that the traffic island remains so people don't turn left on to the site. Attention has to be paid to the traffic flow and there could be lots of accidents for people trying to turn left. I agree that parking is needed and the structure is submerged from my view, so I am not opposed to the structure but concerned about safety."

Mr. Ken Santos (Vice Mayor): "That area is very congested in the morning and evening." Mr. John Setiadi stated that the existing island may need to be removed for it to be possible to make a left turn into the property, but Setiadi Architects will be working closely with the Department of Public Works for traffic safety.

Mr. John Brown: "Don't remove the traffic island. Buses and trucks go speeding down the hill, sometimes so fast that the whole house rattles from it and major fatalities could result if somebody were to stop and make a left turn on that hill."

Mr. Ken Santos (Vice Mayor): "Does the access road have rails?" Ms. Camacho answered that it will be a private road and 30 ft wide. Mr. John Duenas noted that the road has not yet been designed, but there are guidelines for when guardrails are required.

Mr. Ken Santos (Vice Mayor): "Will there be a traffic light there (where the proposed access road meets Upper San Vitores Road)? Otherwise it will be up to the courtesy of other cars stopping for you. Is a lower exit possible?" – Mr. John Duenas replied that no traffic light is planned, but a lower exit is possible.

Mr.Javier Atalig: "From the traffic light on top coming down you can't make a left turn there because there is a lot of drinking involved in Tumon at night and people come flying down the hill. Take the problem out by avoiding a left turn there." Mr. Atalig further commented that he thought a continuous median should be installed along Upper San Vitores Road to stop turning movements. Mr. John Duenas responded that a continuous median would prevent vehicles from making turns along thius stretch of road, including left turns as Mr. Brown says he makes into Casa de Isa. Mr. Duenas mentioned that right turns in and out of the new access road would eliminate traffic conflicts and promote traffic safety.

Minutes of Public Hearing Application 1996-60C Page 3

Mr. John Brown: "Buses break down and they end up using the median. You can't see when you come down the hill, speed is the factor. The traffic island should not be taken away, don't compound the problem by taking it out.

Mr. Ken Santos (Vice Mayor): "It would be best to just turn right in and right out of the garage."

After, no further concerns or question was put forth by the attendees, the meeting was adjourned at 6:50 P.M.

Frank Taitano

Case Planner

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(SPACE ABOVE FOR RECORDATION)

ORIGINAL



TERRITORIAL LAND USE COMMISSION

Department of Land Management

Government of Guam Agana, Guam 96910

NOTICE OF ACTION

April 7, 1997

To: City Hill Company, Guam Dba: Guam Plaza Hotel c/o Duenas & Associates, Inc. P.O.B. 8900

Tamuning, Guam 96931

Application No. 96-060

The Territorial Land Use Commission, at its meeting on March 27, 1997, at 1:30 PM						
/ Approved	/	Disapproved				
XX/ Approved with Conditions		Tabled				
your request on Lot Nos. 5058-3NEW, 50 Municipality of Tamuning, Guam for a:	58-R3-NEW a	nd 5076-R4-2, Tumon,				
Zone Change		Subdivision Variance				
/ Zone Variance		Tentative Subdivision				
/ Conditional Use		Final Subdivision				
/ Wetland Permit	/	Re-Subdivision				
/ Seashore Clearance	/	Subdivision Definition				
/ Miscellaneous	/	Determination of Policy				
XX/ Tentative Development Plan		Definition				

^{**}Approval by the Territorial Land Use Commission of a Zone Change DOES NOT CONSTITUTE FINAL APPROVAL but rather a recommendation to the Governor for his approval. Notification will be sent upon action taken by the Governor. [Ref: 21GCA(Real Property), Chapter 6† (Zoning Law), Section 61634 (Decision by the Commission).]

NOTICE OF ACTION

Application No. 96-060
City Hill Company, Guam, Dba: Guam Plaza Hotel c/o Duenas & Associates, Inc.
Lots 5058-R3-New, 5058-R3-NEW & 5076-R4-2. Tumon (Tentative Development Plan)
TLUC Meeting of March 27, 1997
Page 2

APPLICATION DESCRIPTION: Tentative Development Plan for a 29,950 square feet addition to the existing Guam Plaza Hotel Facility with 8000 sqf. designated for a "TGI Fridays" chain restaurant, 650 sqf. identified for an ice cream parlor and the remaining 21,300 sqft. for shopping space in a "H" Hotel-Resort Zone.

CONDITIONS: The Territorial Land Use Commission Approved the application based on the following conditions:

DEPARTMENT OF LAND MANAGEMENT:

 Applicant must secure documentation of proof of ownership on Portion of the Bull-Cart Trail between Lot 5068 and Lot 5058-R3- NEW. As shown on Consolidation Survey Map of Lot No. 5058-R3NEW-1.

 Landscaping plan be submitted with itemize breakdown on the total percentage (2% of the total construction cost) required and to be reviewed and approved by the Tumon Bay Beautification Task Force via the Chief Planner in line with the Tumon Bay Revitalization Plan.

Landscaping must be in place and Condition No. 1 be complied prior to approval
of the Occupancy Permit by DLM.

DEPARTMENT OF PUBLIC WORKS (DPW)

- Storm Water Disposal: Show proposed storm drainage system and details in the final drawings with calculations. No runoff permitted in the surrounding properties
- Traffic Generation: A traffic impact analysis/study must be coordinated with DPW, Division of Highways, Traffic Control Section. (Table-1, Page 6 of the package).
- Parking Requirement: Show parking layout and detail of parking stalls (compact, standard and accessible stalls)...
- Access Road: Entrance/Exit; Access Road Should be in conformance to the Highway Master Plan and Road should be coordinated with and approved by DPW/HPCC and ROW Sections, Division of Highways.
- Solid Waste Collection/ Disposal: Table 4, Page 12 of the package.
- 6. Transportation (Bus and Bus Shelter): N/A
- Others: For water, sewer, power and telephone coordinate with BWA, GEPA, GPA, AND GTA engineers.

GUAM ENVIRONMENTAL PROTECTION AGENCY

Guam EPA recommends approval of the proposed development. Public disposal on-site to alleviate flooding along San Vitores Road during heavy rains.

BUREAU OF PLANING

- The Bureau has concerns regarding the problem of storm water runoff. This
 immediate area has a history of flooding problems that can be traced to development. This must be resolved prior to construction.
- Bureau recommends that a tropical landscaping scheme be incorporated as part
 of the proposal as well.
- Also the Guam Plaza Resort/Hotel has committed to improve the existing 20 foot right-of-way that DFS shares with the applicant and will provide landscaping and other improvements to the adjacent GovGuam right-of-way.

DEPARTMENT OF AGRICULTURE

Agriculture has no mandated concerns and recommends approval.

GUAM WATERWORK AUTHORITY

 The applicant satisfies the requirements of P.L. 19-47 (Section 21206.2 of the Government Code, Water and Sewer Development charges).

NOTICE OF ACTION

Application No. 96-060 City Hill Company, Guam, Dba: Guam Plaza Hotel c/o Duenas & Associates, Inc. Lots 5058-R3-New, 5058-R3-NEW & 5076-R4-2. Tumon (Tentative Development Plan) TLUC Meeting of March 27, 1997 Page 3

- 2. The Applicant participate as a contributing member in the Tumon Area Wastewater System Association (TAWSA) to fund specified utility infrastructural project in accommodating developments in the Tumon Area by the association.
- 3. The applicant provide a grease trap on the proposed Guam Plaza extension. This is necessary in order to prevent oil and grease discharging to PUAG's sewer system.

GUAM POWER AUTHORITY

- Coordinate underground power facilities with GPA Engineering for new structure 1.
- Maintain minimum clearances as defined by the current edition of the National 2. Electrical Safety Code.
- Secure electric utility easement required. 3.
- 4 Provide scheduling and magnitude of project power demand.
- 5. Primary distribution line extensions must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulation.

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agree	to adhere to any	and all condition	ns made a part	of and attach	ed to this
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ORIGINAL

TERRITORIAL LAND USE COMMISSION Department of Land Management Government of Guam

Agana, Guam 96910

NOTICE OF ACTION

January 4, 1996

To: City Hill Co. (Guam), Ltd./ dba GuamPlaza Hotel c/o Duenas & Associates P.O. Box 8900 Tamuning, Guam 96931

Application No. 95-044

	100
The Territorial Land Use Commission,	, at its meeting on January 2, 1996
/Approved	/Disapproved
_XX/Approved with Conditions	/Tabled
your request on Lot No.5058_R3NEY Tamuning.	V-1_& 5076-R4-2, Village of Tumon, Municipality o
/Zone Change**	/Subdivision Variance
/Zone Variance	/Tentative Subdivision
/Conditional Use	/Final Subdivision
/Wetland Permit	/Re-subdivision
XX/Tentative Development Plan	/Subdivision
/Miscellaneous	

**Approval by the Territorial Land Use Commission of a Zone Change DOES NOT CONSTITUTE FINAL APPROVAL but rather a recommendation to the Governor for his approval. Notification will be sent upon action taken by the Governor. [Ref: 21 GCA (Real Property), Chapter 6 (Zoning Law), Section 61634 (Decision by the Commission).]

ACE OF ACTION

Application No. 95-044

Applicant: City Hill Co. (Guam), Ltd. dba Guam Plaza Hotel

c/o Duenas & Associates:

Lot Nos: 5058-R3NEW-1 & 5076-R4-2 (Tentative Development Plan);

TLUC Meeting of January 2, 1996,

Page 2

APPLICATION DESCRIPTION: Tentative Development Plan for the addition of an aquatic park facility with infrastructure, restaurant/snack bar in an "H1 (Hotel-Resort) zone.

CONDITIONS: The Territorial Land Use Commission approved the application based on the following conditions that:

1) Approval is subject to those conditions/recommendations as stipulated in the position statements submitted by the DRC.

N

Note: Please see attached Position Statements for specific conditions as imposed by the DRC.
JOHN T. ANDERSON Date J.A. MARTINEZ Date Executive Secretary, TLUC ENRIQUE C. BAZA, Jr. Acting Chairman, TLUC/TSPC Date
Case Planner: F. TAITANO/JTA Attachment(s): Position Statements/DRC Distribution List cc: Buildings Permits Section, DPW (Attn: Mr. Jesus Ninete)
CERTIFICATION OF UNDERSTANDING
WE/I, the undersigned MARCEL & CIDNINCLE ((Applicant, pls. print) (Representative - pls. print)
understand and accept the conditions above as a part of the Notice of Action, and further agree to adhere to any and all conditions made a part of and attached to this Notice of Action as mandated by the approval of the Territorial Land Use Commission/Territorial Seashore Protection Commission."
Signature of Applicant Signature of Representative
Date: Date:
ONE (1) COPY OF RECORDED NOTICE OF ACTION RECEIVED BY:
Mal M. Canal Applicant or Representative
Attachment: DRC Distribution

 A_{l}

Date: March 281 Time: 8:20 A:m



TERRITORIAL PLANNING COMMISSION DEPARTMENT OF LAND MANAGEMENT GOVERNMENT OF GUAM AGANA, GUAM 96910



NOTICE OF ACTION

		Date. Mai	ren 21, 1988
TO: Japan Plaza C/O Al Santos	10 B ₂₂		
C/O AI Bantos	10	2.	· ·
The Territorial Planning Commission at	its meetin	g onMai	rch 10, 1988
/ Approved	F • • •	/ Denie	d ,
XX / Approved with Conditions	* * * * * * * * * * * * * * * * * * * *	/ Table	ď
your request on LOT NO. 5058-R3NEW-	1, Tumon,	Dededo	fo
/ Change of Zone (including F	** (du		/ Subdivision
/ Zone Variance		50	/ Tentative Approv
XX / Conditional Use		(4 <u> </u>	/ Final Approval
/ PUD Amendment			/ Resubdivision
/ Preliminary PUD prior to Pu Hearing	ublic		/ Subdivision Definition
	inition		/ Miscellaneous
Please submit this form with necessary was tabled, approved with conditions, conditions below for further details.	or involved THIS NOTIC	a clarific	stion please sae the
Conditional Use to amend previou approved Master Plan and to consadditional building within an "H	sly truct	Richard F. I	F. Rosanio
	THI.	Territorial	
NOTATION: The Commission approved recommendation (PUAG and DPW Engthe developer pay the proposed "fee upon implementation by the	ineering : fair shar	Division) e" of the	00 follows 4 \ mb

fee upon implementation by the government for water and sewer. Additional water supply will be realized through such funding source. Sewerline

connection should be conditional on the completion of the Sewer Reversal

** Approval by the TPC of a Zone Change does not constitute final approval but
rather a recommendation to the Governor for his approval. Notification will

see back page...

be sent upon action taken by the Governor.

Project to the Northern District Treatment Plan (present estimate-March 1989); 2) Developer must provide self-sustaining storm drainage system to be reviewed and approved by DPW, and to include waste water from draining the swimming pool.



TERRITORIAL PLANNING COMMISSION DEPARTMENT OF LAND MANAGEMENT GOVERNMENT OF GUAM AGANA, GUAM 96910



NOTICE OF ACTION

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To: J.P. Carple & Associa

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The Territorial Planning Commission, at its meeting	ng on October 28, 1981
/ Approved	/ Demied
/ Approved with conditions	_/ Tabled
your request on Lot No. 5050-R-3-W-1, Turner	for a
/ Change of zone (including PUD)**	/ Subdivision
/ Zone variance	/ Tent. Approval
/ Conditional use	/ Final Approval
/ PUD Amendment	/ Resubdivision
/ Preliminary PUD prior to Public Hearing	/ Subdivision Definition
/ Determination of Policy Definition	/ Miscel laneous
Please submit this form with necessary plans to the life request was tabled, approved with conditions, or please see the conditions below for further details	or involved a clarification,
A April ANTONIO Executiv	R. CHARDAUROS Ve Secretary
Conditions: 1. That another plan be submitted and a that landscaping be it of construct	personal by also terreliable of the country of the

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**NOTE: Approval by the TPC of a zone change does not constitute timal approval but rather a recommendation to the Governor for his approval. Notification will be sent upon action taken by the Governor.



June 8, 2016

John Z. Arroyo, Chairman
Guam Land Use Commission
c/o Guam Department of Land Management
P.O. Box 2950
Hagatna, GU 96932

Subject:

Guam Plaza Hotel (GPH) and JP Superstore Back of House (BOH) Tentative Development Plan Application and Zone Variance Application, Lot 5058-R3NEW-1, Tumon, Guam. [Application Nos. 1996-60B/C]

Dear Chairman Arroyo and Commission Members:

On behalf of City Hill (Guam), Ltd., we are pleased to submit the following response to the Guam Power Authority's Position Statement dated December 21, 2016, for the Commission's consideration:

A.1.

- Concur, Electrical consultant EMCE Consulting Engineers met with GPA Engineering on February 16, 2016 to discuss conceptual design of the primary power connection. Enclosed is sketch of preliminary design and minutes of the meeting.
- Concur
- Concur
- Concur
- Concur
- Enclosed are EMCE's electrical demand load calculations.
- Concur

A.2. Concur

A.3. Noted

A.4. Concur

B. Noted

We have addressed all of GPA's comments and look forward to presenting these applications to you in the near future.

Sincerely,

Claudine Camarely

Claudine Camacho

Environmental Services Division

Enclosures: 1) Meeting minutes; 2) Sketch; 3) EMCE Electrical Calculations; 4) GPA Position Statement



Suite 201, 133 Antonia Court Tamuning, Guam 96913 P.O. Box 8888, Tamuning, Guam 96931 Tel: (571) 649-0166/7/ Fax: (671) 646-3623

MEETING MINUTES

PROJECT: Guam Plaza Hotel	ЕМСЕ PROJECT NO. 5-13-128
And Japan Plaza, Back-of-House	
	DATE: 2/16/2016
LOCATION: GPA Office, Pagat	BY: Alex F. Andres, P.E.

ATTENDEES:

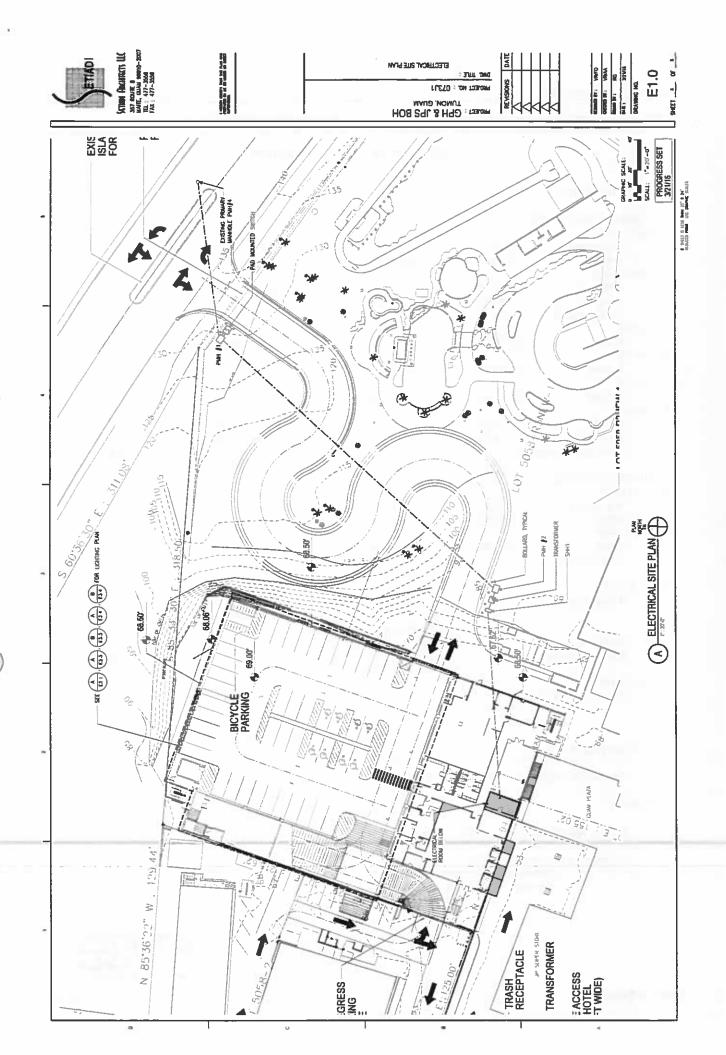
Vince Sablan	- GPA Engineering
Ed Cruz	- GPA Engineering
Francis Oriondo	- EMCE, Inc.
Alex Andres	- EMCE, Inc.

DISCUSSIONS/REMARKS:

- Meeting is to discuss point of connection for the new service to the GPH/JP Back-of-House.
- Schematic drawings were presented to GPA indicating 2 possible point of connection.
 First option is to connect at the primary manhole PMH#9 along Pale San Vitores Road and the second option is to connect to primary manhole PMH#4 along Pale San Vitores Road.
- 3. GPA preference is to connect to primary manhole PMH#4. Proposed underground primary routing is acceptable to GPA.

SIGNED SIX F. AL DATE 1/11/2016

<u>Note:</u> Unless written revisions are received within Seven (7) days, we shall assume the statements contained herein are accepted.



A DEMAND LOAD:

125.6 KVA

109.4 KVA

16.5 KVA

51.5 KVA

COMPUTED	VR/FO	DATE	05/02/16	CHECKED	VR	DATE	05/02/16	JOB NO.	5-13-128

0.5 VA/SF

0.5 VA/SF

0.5 VA/SF

0.5 VA/SF

5 KVA

3 KVA

5 VA/SF

7 VA/SF

7 VA/SF

4.2 KVA

3.1 KVA

4.2 KVA

3 KVA

ELECTRICAL LOAD CALCULATION

1. GENERAL LTG. AND RECEP. a. Lower Level Warehouse: 7393 SF 1 VA/SF 7.4 Office: 1000 SF 4.5 VA/SF 4.5 b. Ground Level Office: 9350 SF 4.5 VA/SF 42.1 Storage 1369 SF I VA/SF 1.4

1 LS

LLS

7393 SF

1000 SF

9350 SF

1 EA

1 EA

I EA

I EA

Level Parking 1 23248 SF c. Level P2 Parking: 33775 SF

d. Level P3 Parking: 33775 SF e. Level P4 Parking: 33775 SF

Road Itg: Roof Parking:

Total Ltg and recep load 2. AIRCONDITIONING:

a. Lower Level Warehouse: Office:

f. Exterior

b. Ground Level Office: Total A/C load

3. EOUIPMENT:

b) Trash comp

Refrigeration

Total equipment load 4. FIRE PUMP:

B. GENERATOR SIZE:

50HP, 208/120V, 3Phase

APPROXIMATE DEMAND LOAD

303.0 KVA

KVA

KVA

KVA

KVA

KVA

KVA

KVA

KVA

KVA

KVA

KVA

KVA

KVA

KVA

KVA

KVA

KVA

51.5 KVA

11.6

16.9

16.9

16.9

5.0

3.0

37.0

7.0

65.5

5.2

3.1

5.2

3.0

C. SERVICE:

Primary underground service - 13.8KV, 3 Phase

Pad mounted transformer - 300KVA

Primary voltage - 13.8KV, 3 phase

Secondary voltage - 208/120V, 3 phase, 4 wire.

Use 250KW/300KVA, 208/120V, 3 phase, 4 wire, standby duty diesel powered generator





GUAM POWER AUTHORITY

ATURIDÅT ILEKTRESEDÅT GUAHAN P.O.BOX 2977 • AGANA. GUAM U.S.A. 96932-2977

December 21, 2015

MEMORANDUM

To:

Chairman, Guam Land Use Commission

Executive Secretary, Guam Land Use Commission

From:

General Manager

Subject:

Lots 5058-R3NEW-1, Municipality of Tamuning, (City Hill Co., Ltd.); Tentative

Development Plan & Zone Variance Application to construct a 4-Story, 6-Level Parking

Garage. Application No. 1996-60B/C

Guam Power Authority has reviewed the application described above and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:

- 1. Applicant is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
 - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
 - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
 - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
 - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
 - Provide scheduling and magnitude of project power demand requirements for new loads.
 - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
- 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
- 3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
- 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

B. General Comments

GPA has no objection to the request subject to the conditions cited above.

OHN M. BENAPENTE, P.

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: Guam Power Authority Applicant: City Hill Co., Ltd. Location: Lots 5058-R3NEW-1, Tamuning

Type of Application: Tentative Dev GLUC/GSPC Application No. 1996 Brief Project Description:	elopment Plan & Zor 5-60B/C	e Variance					
To construct a 4-Story, 6-Level Parking Garage.							
For the purposes of this Certificatio INFRASTRUCTURE include, but and facilities; sewer and liquid walines and facilities; schools; health traffic and street lights; parks and	are not limited to: pov aste disposal; storm a facilities: police an	ver lines poles a water disposal; d fire fighting s	nd facilities; water solid waste disposa	l' telephone			
 I hereby certify that the rec INFRASTRUCTURE are Yes 	currently AVAILAB	NT SERVICES, LE AND IN PL	FACILITIES and ACE to support this	project:			
2. If the answer to #1 above i I hereby certify that the red INFRASTRUCTURE are	uired GOVERNMEN	NT SERVICES, E to support thi	FACILITIES and s project:				
Yes 🗌	No						
If the required GOVERNM place are NOT AVAILAB services, facilities and infrare currently available and	LE or they are AVA astructure that are need identified to develop	ILABLE, BUT ded, the estimate	NOT ADEQUATE ed cost thereof and y	, itemize the			
Services, Facilities and Infrastructure Needed	Cost of Upgrades	Funds Available	Date Available	Funds Identified			
Please see comments below							
I hereby certify that the foregoing is JOHN M. DENAVENTE, P.E. General Manager Comments:		_[_	1/23/15 Date				
Based on a preliminary inspection of demand of the proposed project. A this facility on GPA's existing power any required system upgrade.	system impact assess	ment maybe reg	uired to determine th	ne effect of			

Street Address: 90 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

Mailing Address: P.O. Box 2950 Hagåtña, GU 96932

Website: http://dlm.quam.gov

E-mail Address: dlmdir@land.guam.gov

Telephone: 671-649-LAND (5263)

Facsimile: 671-649-5383



DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



MICHAEL J. B. BORJA Director

DAVID V. CAMACHO Deputy Director

EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor

May 12, 2016

MEMORANDUM

TO:

Guam Land Use Commission (GLUC) Members

FROM:

Chairman, Application Review Committee (ARC)

SUBJECT:

Summary of Positions Submitted by ARC

RE:

Application No. 1996-60C (Zone Variance)

Listed below is the compilation of Positions taken by the various ARC member agencies as submitted to Planning Division, Department of Land Management. The conditions as imposed by the ARC member agencies are listed when applicable.

DEPARTMENT OF LAND MANAGEMENT (DLM):

DLM recommends approval with the following conditions;

- A. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement; and
- **B.** That any future additional development or changes to the approved site plan shall require the Applicant to submit an amended TDP application for review and approval by the Guam Land Use Commission; and
- C. That applicant, submit a new Site/Master Plan in accordance to the as-built conditions for the Chief Planner's review and approval; and
- **D.** That Applicant shall provide a Landscaping Plan w/ an Engineer's or Architect's certification, pursuant to Section 5 G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Chief Planner.

GUAM ECONOMIC DEVELOPMENT & COMMERCE AUTHORITY (GEDCA): GEDCA has no objections.

Continuation of Memorandum Ref: ARC Summary of Position Statements - Application No. 1996-60C May 12, 2016 Page 3 of 8

GUAM POWER AUTHORITY (GPA):

Guam Power Authority has reviewed the application described above and submits the following position statement:

- A. Comments and Recommendations Concerning GPA requirements:
 - 1. Applicant is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and CPA's Service Rules and Regulations:
 - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
 - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
 - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
 - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
 - Provide scheduling and magnitude of project power demand requirements for new loads.
 - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
 - 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
 - 3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
 - 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.
- B. General Comments:

GPA has no objection to the request subject to the conditions cited above.

BUREAU OF STATISTICS AND PLANS (BSP):

The Bureau of Statistics and Plans (BSP) has completed its review of the attached application and provides the following comments and conditions. Should the Commission approve the tentative development plan and variance requests, the applicant must address the following concerns and adhere to the conditions prior to approval.

Continuation of Memorandum Ref: ARC Summary of Position Statements - Application No. 1996-60C May 12, 2016 Page 5 of 8

The Bureau encourages the applicant to establish and agreement with Fuji Ichiban and Rotary Sushi restaurants to ensure that parking for their patrons will be allowed.

Water Source Protection. Enacted in 1974, the Guam Territorial Seashore Protection Act (21 GCA63) is designed to prevent the deterioration and destruction of Guam's natural shoreline areas and sole source Northern Guam Lens Aquifer (NGLA), and to protect the natural resources present there. The applicant's Tumon property is located above Guam's aquifer. The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA a sole source aquifer for Guam's drinking water. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply.

The Bureau is concerned that the proposed construction of 4-story (6-level) parking garage will trigger adverse effects in the aquifer if measures are not in place to control erosion and sedimentation during and after construction of the project. Controlling sedimentation from construction sites is a priority with regards to stormwater controls and impacts to receiving water bodies within the project site. Moreover, the proposed project increases impervious surfaces in the form of roads, rooftops, driveways, sidewalks, and parking lots. These surfaces greatly increase runoff volume accelerating erosion and carrying pollutants into the aquifer.

The Bureau recommends that the applicant:

- a. Employ erosion and sediment controls during the construction of the parking structure to control erosion on site and avoid effects to surrounding neighbors. Best management practices including silt fencing may be found in the CNMI Guam Stormwater Management Manual, October 2006.
- b. Coordinate with the Guam Environmental Protection Agency (EPA) for effective implementation of erosion control methods.
- c. Consult with Guam EPA for an aquifer protection review pursuant to the "Federal Safe Drinking Water Act," § 1424 and Guam Safe Drinking Water Act," 10 GCA Chapter 53.

Stormwater Management. The application states that on-site stormwater drainage collection and disposal systems will be incorporated in the plan with a pre-treatment inlet structure including a baffle wall that could be used.

The storm drainage disposal system will consist of a strategically-placed below ground drainage chamber to direct stormwater into an infiltration trench located along the cliff. The Bureau applauds the City Hill Co. (Guam), Ltd. for incorporating storm drainage systems into their site plan; however, the project site is nine (9) acres.

Continuation of Memorandum Ref: ARC Summary of Position Statements - Application No. 1996-60C May 12, 2016 Page 7 of 8

Native Flora: Protection from invasive species is critical to preserving Guam's native plant and animal species; thus, avoiding the use of invasive plants is highly encouraged. The use of native plants requires little to no fertilizer for growth. The Bureau applauds City Hill Co. (Guam), Ltd. for incorporating native plants into their site plan and encourages consultation with the Department of Agriculture's Division of Forestry and Soil Resources on using native plants and organic fertilizers to avoid additional contaminants from entering the aquifer. The applicant may also seek guidance from Guam EPA regarding their Pesticide Control Program.

Historic Preservation: The applicant must obtain concurrence from the Department of Parks and Recreation, Historic Preservation Division that the proposed development does affect historic properties.

In light of the points presented above, the Bureau finds that the applicant's request for a tentative development plan is in line with the Northern and Central Guam Land Use Plan.

We further find that activities of the proposed construction of a 4-story parking structure directly above a water resource can adversely affect Guam's sole source aquifer, if measures are not in place to manage stormwater and control erosion and sediment on site. Accordingly, the Bureau applauds City Hill Co. (Guam), Ltd. for incorporating the use of native plants and stormwater management practices into their site plans. We encourage the applicant to comply with the above recommended conditions if this application is approved.

As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect the public health, safety, and to promote the public welfare and convenience. We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner.

DEPARTMENT OF PARKS AND RECREATION (DPR):

DPR has no objection to the approval of the subject applications and submit the following comments;

Based on our research of our previous records regarding the subject lot and the construction of the Guam Plaza Hotel and the Water Park, both of which were approved by our office in 1995, we have no objection to the approval of the subject application. During the DPW permitting process for the proposed 4-story, 6-level parking garage and the access road, we will consult with the developer and/or its representatives regarding any additional historic preservation requirements we have in regards to the proposed project overall.



The Honorable Eddie Baza Calvo Governor

The Honorable Ray Tenorio Lieutenant Governor

December 4, 2015

MEMORANDUM

TO:

Director, Department of Land Management (DLM)

FROM:

Director

APPLICANT: (s) City Hill Co. (Guam). Ltd.

SUBJECT:

Position Statement No. 1996 - 60 (B&C)

- Tentative Development Plan application for 4 Storey, 6 level Parking Garage and access road
- Zone Variance application for a setback variance and height variance for the parking garage

Buenas yan Hafa Adai!

The applicant is City Hill (Guam). Ltd. Proposes to construct a six level (4 storey) parking garage in the northwest corner parcel of the back of the house employee parking lot behind the Guam Plaza Hotel. The parking garage will be use by employees of the Hotel and JP Superstore complex, and will provide a supplemental parking for patrons of the nearby restaurant complex (Rotary Sushi and Fuji Ichiban). The parking garage will include warehouse space for JP Superstore, and office space to consolidate the offices in GP Hotel and JP Superstore, thereby freeing up valuable space in the facilities. The parking garage will consists of six levels, which consists of a total floor area of 180.028 square feet

A summary of the proposed uses is presented below:

a) Basement Level

This level would contain a fully air-conditioned warehouse (6,331 sq. ft.), and will be use to store dry goods (non-food items) from JP Store; an Administration Office (597 sq. ft.), a secured storage area, two storage rooms a restroom, electrical room and a loading dock staircase.

b) Ground Level (P1)

This level would be as the same grade as the Fuji Ichiban egress and the proposed access road. A waiting area of three different conference rooms, a storage area, a breakroom, two hallways a restroom and a staircase. On the same level there would be an offices of GP Hotel and JP Super store, 45 parking stalls, a driveway, a ramp and another staircase.

c) Levels P2,P3, P4 and P5

The remaining levels all consists of ramp, parking with driveways and two stair case each. Fifty seven parking stalls each would be allocated to Levels P2 through P4, whereas level P5 would be designed to contain 70 stalls. Level P5 would essentially be the rooftop parking level over P4 and would be an open parking area.

In total, the parking structure would provide 11,087 sq. ft. of warehouse/ storage space and 8,897 sq. ft. of office space for GPH and JPS. The structure would provide 286 parking stalls, 8 of which will be const tructed for Accessible Design under the American Disability Act (ACT) including sixteen bicycle spaces.

The Department of Public Works, (DPW) has completed its review of the subject application and has no objection to the requests provided the following conditions be in place:

- parking layout and parking stalls (compact ,standard and accessible stalls) must meet the American Disability Act (ADA) requirements;
- entrance, exit, sidewalks should be wide enough for public access; and
- · provide directional signs for easy guide to patrons and tourists welfare

Must be in compliance with 21 GCA- Real Property, Division 2, Regulations of Real Property Uses Source: GC S 17303, Part 4 (S 61531, S 61531.1, S 61532 and S 61533, (Part 4, Automobile Parking and Loading Space Regulations).

The applicable rules, regulations and design drawings must be in conformance with the latest building code requirements including building law of Guam prior to issuance of building permit.

Should you have any questions, please contact Mr. John F. Calanayan, Acting Engineer in Charge or Maryrose M. Wilson, Engineer III in the Division of Capital Improvement Projects (CIP) at 646-3189/3224.

Dangkulu na Si Yu'os Ma'ase!

GLENN LEON GUERRERO



GUAM WATERWORKS AUTHORITY

Gloria B. Nelson Public Service Building 688 Route 15, Mangilao, Guam 96913

MEMORANDUM

February 9, 2016

RECEIVED Flanning Du. Den

TO:

Director, Department of Land Management

FROM:

Miguel C. Bordallo, P.E., General Manager

SUBJECT:

Correction to November 24, 2015 Position Statement on Tentative Development Plan Application No. 1996-60B. (The

project description in paragraph 2 was corrected).

APPLICANT:

City Hill Co. (Guam), Ltd.

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a tentative development plan for the proposed construction of a 4-storey, 6-level parking garage and access road on the northwestern portion of Lot 5058-R3NEW-1, in an "H" (Hotel) zone, in the Municipality of Tamuning.

This memorandum shall serve as GWA's position statement for the referenced project. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and existing conditions observed in the field, the following is GWA's position on the tentative development plan application:

Page 2
GWA Position Statement
ARC Application No. 1996-60B
Applicant: City Hill Co. (Guam), Ltd.

- 1. GWA recommends coordination with the GWA Engineering Department well in advance of the building permit application submittal including, verification of backflow preventer requirements.
- 2. If water and sewer infrastructure facilities are installed by the developer, they will require prior approval and shall be subject to inspection by GWA.
- 3. The applicant shall install the water meters in the right of way or easement.
- 4. New development is subject to water and/or sewer system development charges (SDC).

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response. Please contact the GWA Engineering Division regarding water and sewer system improvement design and construction standards and procedures. For additional information please contact Mauryn McDonald, Permits and New Area Development Supervisor, at 300-6054.



GUAM WATERWORKS AUTHORITY

Gloria B. Nelson Public Service Building 688 Route 15, Mangilao, Guam 96913

MEMORANDUM

February 9, 2016

TO:

Director, Department of Land Management

FROM:

Miguel C. Bordallo, P.E., General Manager

SUBJECT:

Correction to November 24, 2015 Position Statement on Application No. 1996-60C. (The project description in

paragraph 2 was corrected).

APPLICANTS:

City Hill Co. (Guam), Ltd.

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance for setback and height for the proposed construction of a 4-storey, 6-level parking garage and access road on the northwestern portion of Lot 5058-R3NEW-1, in an "H" (Hotel) zone, in the Municipality of Tamuning.

This memorandum shall serve as GWA's position statement for the referenced project. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and existing conditions observed in the field, the following is GWA's position on the zone variance application:

Page 2
GWA Position Statement
ARC Application No. 1996-60B
Applicant: City Hill Co. (Guam), Ltd.

- GWA recommends coordination with the GWA Engineering Department well in advance of the building permit application submittal including, verification of backflow preventer requirements.
- 2. If water and sewer infrastructure facilities are installed by the developer, they will require prior approval and shall be subject to inspection by GWA.
- 3. The applicant shall install the water meters in the right of way or easement.
- 4. New development is subject to water and/or sewer system development charges (SDC).

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response. Please contact the GWA Engineering Division regarding water and sewer system improvement design and construction standards and procedures. For additional information please contact Mauryn McDonald, Permits and New Area Development Supervisor, at 300-6054.



GUAM POWER AUTHORITY

ATURIDÅT ILEKTRESEDÅT GUAHAN P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

MB1/4

JAN 4 2016

Department of Land Menagement Time 10:25 Intl 11:00

December 21, 2015

MEMORANDUM

To:

Chairman, Guam Land Use Commission

Executive Secretary, Guam Land Use Commission

From:

General Manager

Subject:

Lots 5058-R3NEW-1, Municipality of Tamuning, (City Hill Co., Ltd.); Tentative Development Plan & Zone Variance Application to construct a 4-Story, 6-Level Parking

Garage. Application No. 1996-60B/C

Guam Power Authority has reviewed the application described above and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:

- Applicant is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
 - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
 - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
 - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
 - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
 - Provide scheduling and magnitude of project power demand requirements for new loads.
 - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
- 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
- A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
- 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

B. General Comments

GPA has no objection to the request subject to the conditions cited above.

IN M. BENAPENTE, P.E

ASG/arp

Q

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: Guam Power Authority Applicant: City Hill Co., Ltd. Location: Lots 5058-R3NEW-1, Tamuning Type of Application: Tentative Development Plan & Zone Variance GLUC/GSPC Application No. 1996-60B/C Brief Project Description: To construct a 4-Story, 6-Level Parking Garage. For the purposes of this Certification, GOVERNMENT SERVICES, FACILITIES, and INFRASTRUCTURE include, but are not limited to: power lines poles and facilities; water lines, pumps and facilities; sewer and liquid waste disposal; storm water disposal; solid waste disposal; telephone lines and facilities; schools; health facilities; police and fire fighting service and facilities; roads; traffic and street lights; parks and recreational activities. I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently AVAILABLE AND IN PLACE to support this project: Yes 🖂 No 🗀 2. If the answer to #1 above is YES, then: I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently ADEQUATE to support this project: Yes No 🛛 If the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE currently in place are NOT AVAILABLE or they are AVAILABLE, BUT NOT ADEQUATE, itemize the services, facilities and infrastructure that are needed, the estimated cost thereof and whether funds are currently available and identified to develop such services, facilities and infrastructure: Services, Facilities and Cost of Upgrades Funds Date Available **Funds** Infrastructure Needed Available Identified Please see comments below I hereby certify that the foregoing is true and correct to the best of my knowledge. General Manager Comments: Based on a preliminary inspection of the site, the electrical facilities may require upgrading to meet the

demand of the proposed project. A system impact assessment maybe required to determine the effect of this facility on GPA's existing power distribution system. The applicant will be responsible for the cost of

any required system upgrade.

Eddie Baza Calvo Governor of Guam

Ray Tenorio

Lieutenant Governor



Government of Guam P.O. Box 2950 Hagatña, Guam 96932

> Tel: (671) 472-4201/3 Fax: (671) 477-1812



William M. Castro Director James T. McDonald Deputy Director

JAN 2 7 2016

MEMORANDUM

To:

Chairman, Guam Land Use Commission

Via:

Executive Secretary, Department of Land Management

From:

Director, Bureau of Statistics and Plans

Subject:

Position Statement on Application No. 1996-60B and 1996-60C

Applicant: City Hill Co. (Guam), Ltd.

Location: Tumon, Guam Lot 5058-R3NEW-1

Purpose: Tentative Development Plan for Parking Structure

and Zone Variance for Height and Setback

Hafa Adai! The applicant City Hill Co. (Guam), Ltd. represented by Duenas, Camacho and Associates, Inc. requests a tentative development plan for a 4-story parking structure comprised of 6 levels for the parking garage. The applicant also requests for a height variance and a setback variance to allow a zero yard setback. The project site is located on Lot 5058-R3NEW-1 in Tumon, Guam which is currently zoned "H" for Hotel/Resort uses. The property can be accessed from Pale San Vitores Road through Rivera Lane. Currently the northwestern side of the property contains a paved "back-of-the-house" (BOH) 74-stall parking lot for the employees of the Guam Plaza Hotel and JP Superstore. The BOH lot abuts a steep limestone cliff that ascends from an elevation of 68 ft. to meet the property's frontage on upper Pale San Vitores Road at elevation 134 ft.

The property also contains the Guam Plaza Hotel (GPH), JP Superstore (JPS), and Tarza Water Park. Surrounding land uses include restaurants, retail/commercial businesses, and hotels including Rotary Sushi, Fuji Ichiban restaurant, Circle K commercial complex, T Galleria, Tumon Capital Hill Hotel, Pacific Place, Tagada Amusement Park, and Ohana Bayview Hotel.

BSP Position Statement ARC: TDP 1996-60B/1996-60C Page 2 of 7

City Hill Co. (Guam), Ltd. proposes that the parking garage will be used by employees of the hotel and JP Superstore complex, and will provide supplemental parking for patrons of the nearby restaurants (Rotary Sushi and Fuji Ichiban). The parking garage will include warehouse space for JP Superstore, and office space to consolidate the offices in Guam Plaza Hotel and JP Superstore, thereby freeing up valuable space in these facilities. The parking garage would consist of six levels, which have a total floor area of 180,028 square feet. A summary of the proposed uses is presented below:

- Basement Level. The lowest level would be a warehouse at the same grade as the existing service road at the rear of the hotel. This level would contain a fully air-conditioned warehouse (6,331 sq. ft.), which would be used to store dry goods (e.g., non-food items) from the JP Superstore. There would also be an Office/Administration room (597 sq. ft.), a secured storage area, two storage rooms, a restroom, an electrical room, a loading dock and staircase.
- Ground Level/Level P1. This level would be at the same grade as the Fuji Ichiban egress and the proposed access road. There would be a waiting area for three different conference rooms, a storage area, two hallways, a break room, a restroom and a staircase. On the same level there would be the offices of Guam Plaza Hotel and JP Superstore, 45 parking stalls, a driveway, a ramp and another staircase.
- Levels P2, P3, P4 and P5. The remaining levels all consist of a ramp, parking with driveways and two staircases each. Fifty-seven (57) parking stalls each would be allocated to Levels P2 through P4, whereas Level P5 would be designed to contain 70 stalls. Level P5 would essentially be rooftop parking over Level P4 and would be an open parking area with no roof.

In total, the parking structure would provide 11,087 sq. ft. of warehouse/storage space and 8,897 sq. ft. of office space for GPH and JPS. The structure would provide 286 parking stalls, 8 of which would be constructed for Accessible Design under the Americans with Disabilities Act (ADA). Pursuant to Section 61531 (n) of the Zoning Code, 16 bicycle spaces would be provided on Level P1 adjacent to the ADA-accessible parking stalls.

The project would also develop a 30 ft. wide private access road from the subject parcel to Pale San Vitores Boulevard along the northeastern parcel boundary. The access road would be used by employees to access the

BSP Position Statement ARC: TDP 1996-60B/1996-60C

Page 3 of 7

parking garage. Currently, employees must access the BOH surface parking lot through the corridor behind or between the Rotary Sushi/Fuji Ichiban complexes. The creation of a new access road is intended to improve traffic flow by providing employees direct access to upper Pale San Vitores Road. The road will be landscaped with a mix of appropriate native and non-native vegetation. The parking garage will use a green wall system of living plants to increase the aesthetics of the site in keeping with the Tumon Bay hotel-resort setting.

City Hill Co. (Guam), Ltd. is requesting approval of a height variance to allow an additional 16.33 feet to the allowable 30 ft. 3-story height. The height variance is requested because the adjacent cliff line presents a physical constraint limiting the horizontal area for parking stalls and circulation in the proposed parking garage. The uppermost elevation of the parking garage would be within the same elevation range as the Tarza Water Park. The application states that the proposed parking garage would not obstruct the views of the Ohana Bayview Hotel (with a ground elevation ranging from 135 to 145 feet) on the opposite side of upper Pale San Vitores Road, or the Oceanview Hotel and Casa de Isa Condominiums, which are located at even higher ground elevations than the Ohana Bayview Hotel.

The Bureau of Statistics and Plans (BSP) has completed its review of the attached application and provides the following comments and conditions. Should the Commission approve the tentative development plan and variance requests, the applicant must address the following concerns and adhere to the conditions prior to approval.

Land Use. Surrounding land uses including mixed use and tourist areas are compatible with the proposed project as identified in the North and Central Guam Land Use Plan (NCGLUP). This plan establishes land use categories that provide for a mix of residential, civic, and industrial development to meet future population and employment needs.

Policy LU-1 Mixed Use states:

"The Mixed Use category primarily focuses on larger commercial centers and corridors, including commercial uses that require large sites and draw customers from throughout the Island. Examples of commercial uses appropriate to this category include but are not limited to department stores, malls, office buildings, medical and other service uses, hotels/motels and restaurants. Mixed use developments incorporating a variety of types and densities of residential units are also appropriate in this designation. Mixed Use development along corridors should be developed in a manner that focuses density in specific areas or 'transit targets' to support high-quality transit service, and should be developed at a

BSP Position Statement ARC: TDP 1996-60B/1996-60C

Page 4 of 7

walkable neighborhood scale. Along undeveloped corridors, the mixed use development should be interspersed with development that is lower density to maintain natural character and open space.

Policy LU-1 Tourist Resort states:

"The Tourist/Resort land use category applies to areas needed for commercial uses to serve the traveling public, including hotels/motels, condominium-hotels, single family and multiple family residential uses, golf courses and other typical resort services and retail uses. These categories are located primarily along the shoreline and include existing and future tourist and resort areas.

The Bureau finds this project is in line with the North and Central Guam Land Use Plan.

Setback Variance: The Interim Rules and Regulations for "H" Hotel Resort Zone requires a minimum yard setback of 10 feet from each property line. The applicant request a variance to allow a zero setback from the western property line; however, only a small section of property along the northern property line would require a zero setback. The nearest occupied buildings to the subject property lines are Rotary Sushi (approximately 20 feet away) and Fuji Ichiban (approximately 50 feet away). Patrons of these restaurant establishments are currently allowed to park on the Guam Plaza Hotel surface parking lot, and this courtesy would continue to be extended to allow patrons to park in the proposed parking garage. The zero yard setbacks would allow the project to avoid substantial encroachment and cutting into the northern and eastern cliff line for the parking garage, which the project is aiming to minimize with the current design approach. The Interim Rules and Regulations further state that a "zero lot line may be permitted with adjacent owner approval." Subsequently, the applicant has provided documentation from surrounding establishments including Fuji Ichiban to support this development.

The Bureau encourages the applicant to establish and agreement with Fuji Ichiban and Rotary Sushi restaurants to ensure that parking for their patrons will be allowed.

Water Source Protection. Enacted in 1974, the Guam Territorial Seashore Protection Act (21 GCA63) is designed to prevent the deterioration and destruction of Guam's natural shoreline areas and sole source Northern Guam Lens Aquifer (NGLA), and to protect the natural resources present there. The applicant's Tumon property is located above

Guam's aquifer. The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA a sole source aquifer for Guam's drinking water. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply.

The Bureau is concerned that the proposed construction of 4-story (6-level) parking garage will trigger adverse effects in the aquifer if measures are not in place to control erosion and sedimentation during and after construction of the project. Controlling sedimentation from construction sites is a priority with regards to stormwater controls and impacts to receiving water bodies within the project site. Moreover, the proposed project increases impervious surfaces in the form of roads, rooftops, driveways, sidewalks, and parking lots. These surfaces greatly increase runoff volume accelerating erosion and carrying pollutants into the aquifer.

The Bureau recommends that the applicant:

- a. Employ erosion and sediment controls during the construction of the parking structure to control erosion on site and avoid effects to surrounding neighbors. Best management practices including silt fencing may be found in the CNMI Guam Stormwater Management Manual, October 2006.
- b. Coordinate with the Guam Environmental Protection Agency (EPA) for effective implementation of erosion control methods.
- c. Consult with Guam EPA for an aquifer protection review pursuant to the "Federal Safe Drinking Water Act," §1424 and Guam Safe Drinking Water Act," 10 GCA Chapter 53.

Stormwater Management. The application states that on-site stormwater drainage collection and disposal systems will be incorporated in the plan with a pre-treatment inlet structure including a baffle wall that could be used. The storm drainage disposal system will consist of a strategically-placed below ground drainage chamber to direct stormwater into an infiltration trench located along the cliff. The Bureau applauds the City Hill Co. (Guam), Ltd. for incorporating storm drainage systems into their site plan; however, the project site is nine (9) acres.

We highly encourage the applicant to comply with the CNMI Guam Stormwater Management Manual and the Guam Erosion & Sediment Control Field Guide. The applicant is therefore advised to consult with Guam Environmental Protection Agency for effective implementation of stormwater management practices. The following are best management

BSP Position Statement ARC: TDP 1996-60B/1996-60C

Page 6 of 7

practices (BMP) that shall be applied by the applicant to the maximum extent practicable:

- 1. Incorporate stormwater facilities inclusive of bioretention systems, and bioswales into their site design as an infrastructure improvement.
- 2. Steep slopes shall be protected from erosion by limiting clearing of these areas or, where grading is unavoidable, by using appropriate techniques to prevent upland runoff from flowing down a steep slope and through immediate stabilization to prevent gullying. Applying hydroseed and coir fiber logs on an exposed slope is a helpful technique to quickly establish vegetative cover. A steep slope is defined as any slope over 20% (5:1) in grade over a length of 50 feet.
- 3. Prepare and implement a Stormwater Pollution Prevention Plan in accordance with 2.1.1 General Performance Criteria of the CNMI Guam Stormwater Management Manual and the National Pollutant Discharge Elimination System (NPDES) Stormwater Program, which requires all sites with a disturbance over 1.0 acre to prepare and implement a SWPPP.

Low Impact Development (LID) Practices. The project location also lies within the Mataguac Spring-Frontal Pacific Ocean Watershed. According to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP), impervious surface in this area increased by 5.17% between 2005 and 2011. Moreover, the application states that the project site is comprised of 56.4% of impervious surface. The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Impervious surfaces from parking roads, driveways, sidewalks, and rooftops accelerate stormwater runoff.

The applicant is encouraged to implement LID practices such as permeable pavement for walkways, grassed swales, island bioretention, and/or rain gardens into the landscaping design as a means to reduce runoff and control erosion from their property. One such practice could be incorporating a rain garden in the landscaping design that will capture runoff from roofs, parking lots, or driveways, which filters pollutants before entering the water. An electronic file of the guidebook "Island Stormwater Practice Design Specifications" is available at the Bureau's, Guam Coastal Management Program office.

BSP Position Statement ARC: TDP 1996-60B/1996-60C Page 7 of 7

Native Flora: Protection from invasive species is critical to preserving Guam's native plant and animal species; thus, avoiding the use of invasive plants is highly encouraged. The use of native plants requires little to no fertilizer for growth. The Bureau applauds City Hill Co. (Guam), Ltd. for incorporating native plants into their site plan and encourages consultation with the Department of Agriculture's Division of Forestry and Soil Resources on using native plants and organic fertilizers to avoid additional contaminants from entering the aquifer. The applicant may also seek guidance from Guam EPA regarding their Pesticide Control Program.

Historic Preservation: The applicant must obtain concurrence from the Department of Parks and Recreation, Historic Preservation Division that the proposed development does affect historic properties.

In light of the points presented above, the Bureau finds that the applicant's request for a tentative development plan is in line with the Northern and Central Guam Land Use Plan. We further find that activities of the proposed construction of a 4-story parking structure directly above a water resource can adversely affect Guam's sole source aquifer, if measures are not in place to manage stormwater and control erosion and sediment on site. Accordingly, the Bureau applauds City Hill Co. (Guam), Ltd. for incorporating the use of native plants and stormwater management practices into their site plans. We encourage the applicant to comply with the above recommended conditions if this application is approved.

As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect the public health, safety, and to promote the public welfare and convenience. We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner.

WILLIAM M. CASTRO

cc: GEPA

DPW

GFD.

DPR

GWA



Department of Parks and Recreation Government of Guam

490 Chalan Palasyo Agana Heights, Guam 96910 Director's Office: (671) 475-6296/7 Facsimile: (671) 477-0997 Parks Division: (671) 475-6288/9

Guam Historic Resources Division: (671) 475-6294/5

Facsimile: (671) 477-2822



William N. Reyes
Deputy Director

Ray Tenorio
Lt. Governor

In reply refer to: RC2016-0011

March 2, 2016

To:

Executive Secretary, Guam Land Use Commission

From:

Director, Department of Parks and Recreation

Subject:

DPR Position Statement on:

DLM Application No. 1996-B Tentative Development Plan

DLM Application No. 1996-C Zone Variance

for the Guam Plaza Hotel and JP Superstore Back of House Project,

Lot 5058-R3NEW-1, Tumon, Guam

We have reviewed subject applications submitted by Duenas, Camacho & Associates, Inc., (DCA), on behalf of the applicant/ owner, City Hill (Guam), Ltd., and have the following comments.

Based on our research of our previous records regarding the subject lot and the construction of the Guam Plaza Hotel and the Water Park, both of which were approved by our office in 1995, we have no objection to the approval of the subject applications.

During the DPW permitting process for the propose 4-story, 6-level parking garage and the access road, we will consult with the developer and/or its representatives regarding any additional historic preservation requirements we have with regards to the proposed project overall.

If you have any questions with regards to our position, please contact our office.

Robert S. Lizama

Director

Cc:

Claudine Camacho, Environmental Services Division,

Duenas, Camacho & Associates (DCA)

ATTACHMENT "E"



DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÄHAN (Government of Guam)



EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor MICHAEL J. B. BORJA Director

DAVID V. CAMACHO Deputy Director

May 12, 2016

Memorandum

To:

Chairman, Guam Land Use Commission

From:

Guam Chief Planner

Subject:

Staff Report - Application No. 1996-60B, Tentative Development Plan

for Lot No. 5058-R3NEW-1, Tumon, Municipality of Tamuning

1. PURPOSE:

- a. Application Summary: The applicant, City Hill Company (Guam) Ltd. represented by Setiadi Architects LLC and Duenas, Camacho & Associates, Inc. is requesting for a Tentative Development Plan Amendment approval to construct a 4-storey, 6-Level parking garage and access road on Lot No. 5058-R3NEW-1, Tumon, Municipality of Tamuning.
- b. Legal Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law) and Section 61311 ("H" (Hote/Resort) Zone) and Section IV (Procedures for Development within an "H" Zone) of the Interim "H" (Hotel-Resort) Zone Rules and Regulations.

2. FACTS:

- a. Location: The subject site is located on the site of the existing Guam Plaza Hotel, the JP Superstore and Tarza Water Park on the northern corner of the junction of San Vitores Road and Rivera Lane.
- b. Lot Area: 36,449 Square Meters or 392,333.69 Square Feet.
- b. Present Zoning: "H" (Hotel-Resort) Zone.
- c. Field Description: The 9-acre site accommodates a fully developed hotel/resort complex consisting of the two, seven story Guam Plaza Hotel towers, the JP Superstore, the Tarza Water Park, a two story, three level parking structure, landscaping and various accessory amenities for onsite recreational, commercial and guest accommodations.

Street Address: i90 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

> Malling Address: P.O. Box 2950 Hagåtña, GU 96932

Website: http://dlm.guam.gov

E-mail Address: dlmdir@land.guam.gov

Telephone: 671-649-LAND (5263)

Facsimile: 671-649-5383



Staff Report - Application 1996-60 B, TDP Lot 5058-R3NEW-1, Tumon, Municipality of Tamuning GLUC Hearing Date: June 9, 2016 Page 2 of 5

e. Masterplan: "H" (Hotel-Resort)

f. Community Design Plan: "H" (Hotel-Resort)

g. Previous Commission Action:

October 18 1983 - The Territorial Land Use Commission (now known as the Guam Land Use Commission) approved with conditions a Conditional Use for a 15-story hotel building and Zone Variance for density and parking.

March 10, 1988 - The Territorial Land Use Commission (now known as the Guam Land Use Commission - GLUC) approved with conditions a Conditional Use to amend previously approved Master Plan to change the approved 15 story hotel tower for two-7 story hotel towers and to construct additional building to include a shooting range, a single family dwelling unit.

January 2, 1996 – The GLUC approved with conditions a Tentative Development Plan for the addition of an Aquatic Park facility with infrastructure, restaurant/snack bar.

March 27, 1997 – The GLUC approved with conditions a Tentative Development Plan for a 29,950 square feet addition to the existing Guam Plaza Hotel Facility with 8,000 square feet designated for a "TGI Fridays" chain restaurant, 650 square feet identified for an ice cream parlor and the remaining 21,300 square feet for shopping space in a "H" Hotel-Resort Zone.

3. APPLICATION CHRONOLOGICAL FACTS:

a. Date Application Accepted: October 20, 2015

d. Date Heard By ARC: November 19, 2015

e. Public Hearing Results: Not Required

Note: The following Letters of Support were received and attached as Attachment "A"

1. Letter from Vince Jewelers dated January 18, 2016.

2. Letter from Shao Enterprises, Inc. dated January 1, 2016.

3. Letter from Pacific Place dated January 6, 2016.

Staff Report - Application 1996-60 B, TDP Lot 5058-R3NEW-1, Tumon, Municipality of Tamuning GLUC Hearing Date: June 9, 2016 Page 3 of 5

4. DISCUSSION and STAFF ANALYSIS:

The existing 9 acre site accommodates a fully developed Hotel/Resort complex consisting of the two, seven story Guam Plaza Hotel towers, the JP Superstore, the Tarza Water Park, a two story, three level parking structure, landscaping and various accessory amenities for onsite recreational, commercial and guest accommodations which includes the "back-of-the-house", 74 stall paved parking area for the employees of the Guam Plaza Hotel and JP Superstore.

As proposed, the submitted Tentative Development Plan is to amend the existing site/master plan of the hotel/resort complex to construct a 6-level (4-story) parking garage on the site of the existing "back-of-the-house" parking area. The parking garage will be used by the employees of the hotel and superstore complex and will provide supplemental parking for patrons of the nearby restaurant complex (Rotary Sushi and Fuji Ichiban), and will also include warehouse space for the JP Superstore, office spaces to accommodate the relocation of the hotel's and the superstore's existing offices. The six levels of the parking structure will consist of a basement level, the four levels of the four story building and a roof level for a total of 180,028 square feet floor area.

The basement level is the warehouse level and would contain a fully air-conditioned warehouse to store dry goods from the JP Superstore. There will also be an office administration room, a secured storage area, two storage rooms, a restroom, an electrical room, a loading/off loading dock and parking area for freezer containers.

The ground level or P1 level (1st floor), which will be on the same level as the Fuji Ichiban egress and the proposed access road will contain a waiting area for three different conference rooms, a storage area, a break room, a restroom, offices of the Guam Plaza Hotel and the JP Superstore, 45 parking stalls, a driveway, a ramp and staircases. A generator room is also located on this level as an accessory structure directly opposite stairway no. 1.

Levels P2, P3 &P4 (2nd, 3rd, & 4th Floors) would each contain 57 parking stalls, a ramp, driveways and 2 staircases each. Level P5 (Rooftop Level) is intended to be an open parking area with no roof containing 70 parking stalls and 2 staircases.

The request further includes development of a 30-foot wide private access road from the parking structure to Pale San Vitores Road along the property's northeastern boundary. The road anticipates improved traffic circulation by direct access to the upper Pale San Vitores Road.

Accommodations for use demands are as follows:

USES	AREA	
Warehousing/Storage	11,087 sq. ft.	4110
Office Space	8,897 sq. ft.	
Parking stalls	286	

Staff Report - Application 1996-60 B, TDP Lot 5058-R3NEW-1, Tumon, Municipality of Tamuning GLUC Hearing Date: June 9, 2016

Page 4 of 5

The 286 parking stalls to be allocated as follows:

USES	STALLS
Office Space	23
Warehousing/Storage	28
ADA Compliance	8 Company 8 Company of the Company o
Patron/Customer Use	227

In addition, 16 bicycle spaces will also be provided.

In our assessment of the above parking assessment, we found that stalls allocated for warehouse/ storage use should be assessed at 1 parking stall per 800 square feet and will only require 14 parking stalls or (11,087 SF/800 = 13.85 or 14 stalls). This ratio increase the number of parking stalls from 227 parking stalls to 241 parking stalls available for the employees of the Hotel/Resort complex and patrons of the nearby Rotary Sushi and Fuji Ichiban restaurants.

The application includes a landscaping plan to landscape the private access road with a mix of native and non-native vegetation. Landscaping will be extended to the parking garage structure itself by implementing a use a green wall system of living plants to increase the aesthetics of the site and in keeping with the Tumon Bay Hotel-Resort setting with 2% of the total construction cost committed toward landscaping.

With respect to storm water management, such will be accomplished through an appropriately designed storm drainage system to be located adjacent to the generator room on Level P1 (ground level). This will consist of a strategically-placed sub-ground drainage chamber that will direct storm water into an infiltration trench near the cliff.

With respect to the setback and height elements of the proposed development, a separate Zone Variance application is being processed together with this request to address such design elements.

As dialog and consultation with representatives of this application continues, the issue concerning anticipated displacement of parking during the construction of the proposed structure was discussed. The applicant is currently engaging in efforts to address this concern.

In line with the Zoning Law and the Interim "H" Resort-Hotel Zone Rules and Regulations, the Commission may approve a Tentative Development Plan upon determining the proposed use is found consistent within a tourism-related development area, and that such use is reasonably compatible with existing or foreseeable development in the surrounding area. Further, uses found to be consistent in tourism-related development areas, as described in the Interim "H" Zone Rules and Regulations include a variety of support uses that include parking facilities. In this case such facilities are intended to support various commercial activities as permitted in an "H" zone.

Staff Report - Application 1996-60 B, TDP Lot 5058-R3NEW-1, Tumon, Municipality of Tamuning GLUC Hearing Date: June 9, 2016 Page 5 of 5

In the analysis of this application as it pertains to this request, we find the applicant has demonstrated such request to be in line and consistent, if no compatible with the Interim "H" Hotel-Resort Zone Rules and Regulations. Therefore, we find it only proper the request be considered favorably by the Guam Land Use Commission.

- 5. **RECOMMENDATION:** Based on our assessment, we recommend **APPROVAL WITH CONDITIONS** provided the applicant adheres to conditions follows:
 - A. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in each Official Position Statement;
 - B. That any future additional development or changes to the approved site plan shall require the Applicant to submit an amended TDP application for review and approval by the Guam Land Use Commission;
 - C. That Applicant shall provide a Landscaping Plan w/ an Engineer's or Architect's certification, pursuant to Section 5 G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Chief Planner;
 - D. The pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the infrastructure improvements as specified in the TDP shall be completed within 1-year from date of Commission approval;
 - E. That the Applicant shall also ensure compliance to the 1-year time restriction that states a "grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise the approval as granted by the Commission be "NULL and VOID" per Executive Order 96-26, Section 5".

CASE PLANNER: F.P.TAITANO

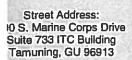
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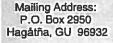
Attachments:

-ARC Memo to GLUC Members -Letters of Support (Attachment "A")

-Notice of Actions

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E-mail Address:

Telephone: 671-649-LAND (5263)





DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÄHAN (Government of Guam)

MICHAEL J. B. BORJA Director

DAVID V. CAMACHO Deputy Director

EDDIE BAZA CALVO

RAY TENORIO Lieutenant Governor

May 12, 2016

MEMORANDUM

TO:

Guam Land Use Commission (GLUC) Members

FROM:

Chairman, Application Review Committee (ARC)

SUBJECT:

Summary of Positions Submitted by ARC

RE:

Application No. 1996-60B (Tentative Development Plan)

Listed below is the compilation of Positions taken by the various ARC member agencies as submitted to Planning Division, Department of Land Management. The conditions as imposed by the ARC member agencies are listed when applicable.

DEPARTMENT OF LAND MANAGEMENT (DLM):

DLM recommends approval with the following conditions;

- A. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement; and
- **B.** That any future additional development or changes to the approved site plan shall require the Applicant to submit an amended TDP application for review and approval by the Guam Land Use Commission; and
- C. That applicant, submit a new Site/Master Plan in accordance to the as-built conditions for the Chief Planner's review and approval; and
- **D.** That Applicant shall provide a Landscaping Plan w/ an Engineer's or Architect's certification, pursuant to Section 5 G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Chief Planner.

GUAM ECONOMIC DEVELOPMENT & COMMERCE AUTHORITY (GEDCA): GEDCA has no objections.

Continuation of Memorandum Ref: ARC Summary of Position Statements - Application No. 1996-60B May 12, 2016 Page 3 of 8

GUAM POWER AUTHORITY (GPA):

Guam Power Authority has reviewed the application described above and submits the following position statement:

- A. Comments and Recommendations Concerning GPA requirements:
 - Applicant is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and CPA's Service Rules and Regulations:
 - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
 - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
 - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
 - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
 - Provide scheduling and magnitude of project power demand requirements for new loads.
 - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
 - Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
 - 3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
 - 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.
- B. General Comments:

GPA has no objection to the request subject to the conditions cited above.

BUREAU OF STATISTICS AND PLANS (BSP):

The Bureau of Statistics and Plans (BSP) has completed its review of the attached application and provides the following comments and conditions. Should the Commission approve the tentative development plan and variance requests, the applicant must address the following concerns and adhere to the conditions prior to approval.

Continuation of Memorandum Ref: ARC Summary of Position Statements - Application No. 1996-60B May 12, 2016 Page 5 of 8

The Bureau encourages the applicant to establish and agreement with Fuji Ichiban and Rotary Sushi restaurants to ensure that parking for their patrons will be allowed.

Water Source Protection. Enacted in 1974, the Guam Territorial Seashore Protection Act (21 GCA63) is designed to prevent the deterioration and destruction of Guam's natural shoreline areas and sole source Northern Guam Lens Aquifer (NGLA), and to protect the natural resources present there. The applicant's Tumon property is located above Guam's aquifer. The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA a sole source aquifer for Guam's drinking water. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply.

The Bureau is concerned that the proposed construction of 4-story (6-level) parking garage will trigger adverse effects in the aquifer if measures are not in place to control erosion and sedimentation during and after construction of the project. Controlling sedimentation from construction sites is a priority with regards to stormwater controls and impacts to receiving water bodies within the project site. Moreover, the proposed project increases impervious surfaces in the form of roads, rooftops, driveways, sidewalks, and parking lots. These surfaces greatly increase runoff volume accelerating erosion and carrying pollutants into the aquifer.

The Bureau recommends that the applicant:

- a. Employ erosion and sediment controls during the construction of the parking structure to control erosion on site and avoid effects to surrounding neighbors. Best management practices including silt fencing may be found in the CNMI Guam Stormwater Management Manual, October 2006.
- b. Coordinate with the Guam Environmental Protection Agency (EPA) for effective implementation of erosion control methods.
- c. Consult with Guam EPA for an aquifer protection review pursuant to the "Federal Safe Drinking Water Act," § 1424 and Guam Safe Drinking Water Act," 10 GCA Chapter 53.

Stormwater Management. The application states that on-site stormwater drainage collection and disposal systems will be incorporated in the plan with a pre-treatment inlet structure including a baffle wall that could be used.

The storm drainage disposal system will consist of a strategically-placed below ground drainage chamber to direct stormwater into an infiltration trench located along the cliff. The Bureau applauds the City Hill Co. (Guam), Ltd. for incorporating storm drainage systems into their site plan; however, the project site is nine (9) acres.

Continuation of Memorandum
Ref: ARC Summary of Position Statements - Application No. 1996-60B
May 12, 2016
Page 7 of 8

Native Flora: Protection from invasive species is critical to preserving Guam's native plant and animal species; thus, avoiding the use of invasive plants is highly encouraged. The use of native plants requires little to no fertilizer for growth. The Bureau applauds City Hill Co. (Guam), Ltd. for incorporating native plants into their site plan and encourages consultation with the Department of Agriculture's Division of Forestry and Soil Resources on using native plants and organic fertilizers to avoid additional contaminants from entering the aquifer. The applicant may also seek guidance from Guam EPA regarding their Pesticide Control Program.

Historic Preservation: The applicant must obtain concurrence from the Department of Parks and Recreation, Historic Preservation Division that the proposed development does affect historic properties.

In light of the points presented above, the Bureau finds that the applicant's request for a tentative development plan is in line with the Northern and Central Guam Land Use Plan.

We further find that activities of the proposed construction of a 4-story parking structure directly above a water resource can adversely affect Guam's sole source aquifer, if measures are not in place to manage stormwater and control erosion and sediment on site. Accordingly, the Bureau applauds City Hill Co. (Guam), Ltd. for incorporating the use of native plants and stormwater management practices into their site plans. We encourage the applicant to comply with the above recommended conditions if this application is approved.

As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect the public health, safety, and to promote the public welfare and convenience. We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner.

DEPARTMENT OF PARKS AND RECREATION (DPR):

DPR has no objection to the approval of the subject applications and submit the following comments;

Based on our research of our previous records regarding the subject lot and the construction of the Guam Plaza Hotel and the Water Park, both of which were approved by our office in 1995, we have no objection to the approval of the subject application. During the DPW permitting process for the proposed 4-story, 6-level parking garage and the access road, we will consult with the developer and/or its representatives regarding any additional historic preservation requirements we have in regards to the proposed project overall.

ATTACHMENT "F"

DIPĀTTAMENTON MINANEHAN TĀNO'
(Department of Land Management)
GUBETNAMENTON GUĀHAN
(Government of Guam)



EDDIE BAZA CALVO

RAY TENORIO Lieutenant Governor



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

May 24, 2016

MEMORANDUM

TO:

Chairman, Guam Land Use Commission

FROM:

Guam Chief Planner

SUBJECT:

Staff Report - Application No. 2013-08B, Zone Variance (Extension) for continued operations of a retail and convenience market and a

residence on Lot 9, Block 1, Tract 159 in the Municipality of Yigo

1. PURPOSE:

- A. Application Summary: The Applicants, Brian and Jennifer Na are requesting permanent approval of their Zone Variance Permit pursuant to the Commission's April 10, 2014 approval to allow a retail and convenience market and a residence on Lot 9, Block 1, Tract 159 in the Municipality of Yigo.
- B. Legal Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law) Sections 61616 to 61624 (Variances).

2. FACTS:

A. On April 10, 2014 the commission approved the applicant's request with the condition that the variance shall be limited to a time period not to exceed two years from the date of recordation of an approved Notice of Action. Upon lapse of this timeline, the applicant may submit to the commission a request to extend the use variance approval either for an additional two years or permanently, provided the Commission finds the applicant show proof of adhering to the conditions, public concerns, and any requirements as provided by the Yigo Municipal Planning Council, if any, shall submit a one-year report on the status of operations. With regards to the one-year report, that the form be in form and context to the satisfaction of the Chief Planner.

Mailing Address:

P.O. Box 2950 Hagatña, GU 96932

Street Address:

590 S. Marine Corps Drive

Suite 733 ITC Building

Tamuning, GU 96913

Website: http://dlm.guam.gov

E-mail Address: dimdir@land.guam.gov

Telephone: 671-649-LAND (5263)

Facsimile: 671-649-5383



Continuation of Memorandum

RE: Staff Report - Application No. 2013-08B (Zone Variance for Use) - Lot 9, Block 1,

Tract 159 Municipality of Yigo Date of GLUC Hearing: June 9, 2016

Date of Preparation of Staff Report: May 24, 2016

Page 2 of 2

3. <u>DISCUSSION AND ANALYSIS:</u>

- A. The status report submitted documents the actions that the Applicants have taken in adherence to the conditions imposed. As such, subsequent to the approval, they have obtained the permits for the operation of the retail and convenience market (Gayinero Market).
- B. During our site inspection on May 5, 2016, we found the establishment adequately maintained and clean. Access to and from the site was easily achieved for vehicle and pedestrian customers. Our interview with staff confirmed the use of the parking area by patrons of the store, by parents waiting for their children's' school bus or transit service. Additionally, these resident are allowed the use of restrooms when needed.
- C. As a result of public concern for poor lighting in the area, the applicants have installed a lighting system that provides safe illumination for the general area and across the street at a school bus shelter. This was installed being mindful of oncoming traffic so as not to create a hazard for drivers. They are also planning to upgrade the lighting system with LED lights to provide more visibility for patrons of the store, school bus riders and the commuters of the Guam Transit and drivers on Route 15 and Gayinero Road.

4. RECOMMENDATION: Recommend APPROVAL with CONDITIONS as follows:

That a permanent variance be granted for as long as the applicant continues to adhere to conditions of approval that require continued maintenance and upkeep as noted in conditions 1 and 5 of the Notice of Action recorded under Instrument No. 865565.

Marvin C. Aguilar Guam Chief Planner

Attachment

Case Planner: Celine Cruz



DIPÄTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUĀHAN (Government of Guam)



Street Address: 590 S. Marine Corps Drive **BAY TENORIO** Suite 733 ITC Building Lieutenant Governor of Guam Tamuning, GU 96913

Mailing Address: P.O. Box 2950 Hagátňa, GU 96932

Website: http://dlm.quam.gov

E-mail Address: dlmdir@dlm.quam.gov

Telephone: 671-649-LAND (5263)

> Facsimile: 671-649-5383



Governor of Guarn

June 2, 2016

MEMORANDUM

TO:

Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2016-27

RE: DLM Map 044FY2015

PURPOSE:

- The Applicant, Mark Zhao, as represented by A. APPLICATION SUMMARY. Guam Surveyor, LLC, Professional Land Surveyor No. 75, is requesting approval to subdivide Lot 7024-4-6B-3NEW (total of 13 lots), in Municipality of Yigo, under DLM Map 044FY2015, Pursuant to PL 28-126. Section 1(a).
- В. LEGAL AUTHORITY. Public Law 28-126, Section 1(a); and Guidelines for Certification Process of March 06, 2007.

2. **FACTS:**

- A. Location. Subject lot occurs in Yigo, east of Perez Acres abutting Chalan Halom and is approximately 550± meters east of the intersection of Route 1 and 750± meters north of Route 15.
- B. Lot area size. Minimum required with sewer is 929 sm. Lot Area sizes are as follows:

	TABL	E1 ACULANT		
	Α	В	C	D
NO.	PROPOSE LOT NUMBER	SQUARE METERS	SQUARE FEET	ACREAGE
1	7024-4-6B-3NEW-R/W	2558	27,524	0.6187
2	7024-4-6B-3NEW-1	929	9,996	0.2295
3	7024-4-6B-3NEW-2	967	10,405	0.2388
4	7024-4-6B-3NEW-3	929	9,996	0.2295
5	7024-4-6B-3NEW-4	929	9,996	0.2295
6	7024-4-6B-3NEW-5	929	9,996	0.2295
7	7024-4-6B-3NEW-6	929	9,996	0.2295
8	7024-4-6B-3NEW-7	929	9,996	0.2295
9	7024-4-6B-3NEW-8	929	9,996	0.2295
10	7024-4-6B-3NEW-9	929	9,996	0.2295
11	7024-4-6B-3NEW-10	929	9,996	0.2295
12	7024-4-6B-3NEW-11	929	9,996	0.2295
13	7024-4-6B-3NEW-R11	929	9,996	0.2295
	TOTAL	13,774	147,885	3.395

Continuation of Memorandum
RE: Staff Report - Application No. 2015-27
Lot 7024-4-6B-3NEW, Municipality of Yigo

Page 2 of 3

C. **Present Zoning.** Subject property is zoned "A" (Rural-Agricultural) pursuant to Official Zoning Map of Guam No. F3-67S42.

3. APPLICATION CHRONOLOGICAL FACTS:

- A. Previous Commission Actions. None.
- B. Date Heard by ARC. N/A.
- C. Public Hearing and Results. N/A.
- 4. DISCUSSION: Public Law 28-126 Section 1(a) requires that this Commission shall not approve a survey map for any subdivision of any kind, including agricultural subdivisions, unless all of the following government officials have certified in writing that the proposed map meets the requirements of Title 21 G.C.A Chapter 62." This map is being submitted as an "Agricultural Subdivision Survey" since the primary purpose is to sell the individual lots. The following 6-required Government Officials have affixed their certification as follows:

		TABLE 2	
	Α	В	С
NO.	AGENCY	OFFICIAL	CERTIFICATION DATE
1	DLM	DIRECTOR	Pending approval by GLUC
2	DLM	CHIEF PLANNER	Pending approval by GLUC
3	DPW	DIRECTOR	Signed per Sheet 1
4	DPW	CHIEF ENGINEER	Signed per Sheet 1
5	GEPA	ADMINISTRATOR	Signed per Sheet 1
6	GFD	GUAM FIRE CHIEF	Signed per Sheet 1
7	REV & TAX	REAL ESTATE COMMISSIONER	Signed per Sheet 1

The proposed subdivision is serviced by a 36-foot wide Public Access & Utility Easement (Lot 7024-4-6B-3NEW-R/W) with sewer available on Chalan Halom. Each lot is designed to have access and to cause for every lot to abut a roadway right-of-way pursuant to Title 21, Chapter 62, Subdivision Law, §62108 (b), either through Lot 7024-4-6B-3NEW-R/W or Chalan Halom.

The map that is before you for review contains all of the required certifications. The following analysis on Agency certifications is as follows:

Continuation of Memorandum RE: Staff Report - Application No. 2015-27 Lot 7024-4-6B-3NEW, Municipality of Yigo

Page 3 of 3

5. STAFF RECOMMENDATIONS.

Recommend **Approval WITH CONDITIONS** as follows:

- A. That Applicant complies to all conditions noted on the cover sheet 1 of 3 on the map (DLM Map 044FY2015) or as required by Government permitting agencies; and
- B. That, irrespective of ownership, any future modifications to the parcels such as consolidation and re-subdivision, or any other methods of subdividing said parcels must be subjected to the Guam Land Use Commission's review prior to map approval; and
- C. That no ownership rights or title to any lots shall be transferred unless the required improvements such as water, power and sewer including Condition B & C above, are in place and ready to service any development on the lot; and
- D. That "Pursuant to Section 5 of Executive Order 96-26, the Developer must apply for and receive a building or grading permit for the approved GLUC project within one (1) year of the date of recordation of the Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire.

Sincerely

Maryin Q. Aguilar Guam Chief Planner

ATTACHMENT ##"



DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÄHAN (Government of Guam)



MICHAEL JB BOF

Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

> Mailing Address: P.O. Box 2950 Hagåtña, GU 96932

Website: http://dlm.guam.gov

E-mail Address: dlmdir@dlm.guam.gov

Telephone: 671-649-LAND (5263)





Governor of Guam

RAY TENORIO

Lieutenant Governor of Guam

June 2, 2016

MEMORANDUM

TO:

Chairman, Guam Land Use Commission

FROM:

Guam Chief Planner

SUBJECT:

Staff Report - Application No. 2016-28

RE:

DLM Map 040FY2015

1. PURPOSE:

- A. APPLICATION SUMMARY. The Applicant, Mark Zhao, as represented by Guam Surveyor, LLC, Professional Land Surveyor No. 75, is requesting approval to subdivide Lot 7024-4-6A-6A (total of 20 lots), in Municipality of Yigo, under DLM Map 040FY2015, Pursuant to PL 28-126, Section 1(a).
- B. **LEGAL AUTHORITY.** Public Law 28-126, Section 1(a); and Guidelines for Certification Process of March 06, 2007.

2. FACTS:

- A. Location. Subject lot occurs in Yigo, east of Perez Acres abutting Chalan Halom and is approximately 550± meters east of the intersection of Route 1 and 750± meters north of Route 15.
- B. Lot area size. Minimum required with sewer is 929 sm. Lot Area sizes are as follows:

Para Caral	TABLE	1416		
	A	В	С	D
NO.	PROPOSED LOT NUMBER	SQUARE METERS	SQUARE FEET	ACREAGE
1	7024-4-6A-1R/W	2,689	28,934	0.6642
2	7024-4-6A-2	929	9,996	0.2295
3	7024-4-6A-3	929	9,996	0.2295
4	7024-4-6A-4	929	9,996	0.2295
5	7024-4-6A-5	929	9,996	0.2295
6	7024-4-6A-6	929	9,996	0.2295
7	7024-4-6A-7	929	9,996	0.2295
8	7024-4-6A-8	929	9,996	0.2295
9	7024-4-6A-9	929	9,996	0.2295
10	7024-4-6A-10	929	9,996	0.2295
11	7024-4-6A-11	929	9,996	0.2295
12	7024-4-6A-12	929	9,996	0.2295
13	7024-4-6A-13	929	9,996	0.2295
14	7024-4-6A-14	929	9,996	0.2295

Continuation of Memorandum RE: Staff Report - Application No. 2015-28

Lot 7024-4-6A, Municipality of Yigo

Page 2 of 3

20	7024-4-6A-R19 (Ponding Basin)	568	6112	0.1403
19	7024-4-6A-19 (Garden)	257	2765	0.0635
18	7024-4-6A-18	929	9,996	0.2295
17	7024-4-6A-17	929	9,996	0.2295
16	7024-4-6A-16	929	9,996	0.2295
<u> 15</u>	7024-4-6A-15	929	9,996	0.2295

C. **Present Zoning.** Subject property is zoned "A" (Rural-Agricultural) pursuant to Official Zoning Map of Guam No. F3-67S42.

3. APPLICATION CHRONOLOGICAL FACTS:

- A. Previous Commission Actions. None.
- B. Date Heard by ARC. N/A.
- C. Public Hearing and Results. N/A.
- 4. <u>DISCUSSION</u>: Public Law 28-126 Section 1(a) requires that this Commission <u>shall</u> not approve a survey map for any subdivision of any kind, including agricultural <u>subdivisions</u>, unless all of the following government officials have <u>certified</u> in <u>writing</u> that the proposed map meets the requirements of Title 21 G.C.A Chapter 62." This map is being submitted as an "Agricultural Subdivision Survey" since the primary purpose is to sell the individual lots. The following 6-required Government Officials have affixed their certification as follows:

TABLE 2				
	Α	В	С	
NO.	AGENCY	OFFICIAL	CERTIFICATION DATE	
1	DLM	DIRECTOR	Pending approval by GLUC	
2	DLM	CHIEF PLANNER	Pending approval by GLUC	
3	DPW	DIRECTOR	Signed per Sheet 1	
4	DPW	CHIEF ENGINEER	Signed per Sheet 1	
5	GEPA	ADMINISTRATOR	Signed per Sheet 1	
6	GFD	GUAM FIRE CHIEF	Signed per Sheet 1	
7	REV & TAX	REAL ESTATE COMMISSIONER	Signed per Sheet 1	

The proposed subdivision is serviced by a 36-foot wide Public Access & Utility Easement (Lot 7024-4-6A-1R/W) with sewer available on Chalan Halom. Each lot is designed to have access and to cause for every lot to abut a roadway right-of-way pursuant to Title 21, Chapter 62, Subdivision Law, §62108 (b), either through Lot Lot 7024-4-6A-1R/W or Chalan Halom.

The map that is before you for review contains all of the required certifications. The following analysis on Agency certifications is as follows:

Continuation of Memorandum RE: Staff Report - Application No. 2015-28 Lot 7024-4-6A, Municipality of Yigo

Page 3 of 3

5. STAFF RECOMMENDATIONS.

Recommend **Approval WITH CONDITIONS** as follows:

- A. That Applicant complies to all conditions noted on the cover sheet 1 of 2 on the map (DLM Map 040FY2015) or as required by Government permitting agencies; and
- B. That, irrespective of ownership, any future modifications to the parcels such as consolidation and re-subdivision, or any other methods of subdividing said parcels must be subjected to the Guam Land Use Commission's review prior to map approval; and
- C. That no ownership rights or title to any lots shall be transferred unless the required improvements such as water, power and sewer including Condition B & C above, are in place and ready to service any development on the lot; and
- D. That "Pursuant to Section 5 of Executive Order 96-26, the Developer must apply for and receive a building or grading permit for the approved GLUC project within one (1) year of the date of recordation of the Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire.

Sincerely,

Marvin Q. Aguilar Guam Chief Planner